

§§ 904—907. Repealed. June 27, 1952, ch. 477, title IV, § 403 (a) (42), 66 Stat. 280, eff. Dec. 24, 1952.

Section 904, act Oct. 14, 1940, ch. 876, title I, subchap. V, § 504, 54 Stat. 1172, related to repeals.

Section 905, act Oct. 14, 1940, ch. 876, title I, subchap. V, § 505, 54 Stat. 1174, related to separability clause.

Section 906, act Oct. 14, 1940, ch. 876, title I, subchap. V, § 505, 54 Stat. 1174, related to effective date of chapter.

Section 907, act Oct. 14, 1940, ch. 876, title I, § 1, 54 Stat. 1137, related to short title of chapter.

SPECIFIC REPEALS BY ACT OCTOBER 14, 1940

In addition to the provisions from which former section 904 was taken, section 504 of act Oct. 14, 1940, specifically repealed all or parts of the following: Title 8, §§ 1, 3, 5a-1, 5d, 5e, 6, 7, 8, 9, 9a, 11, 16, 17, 17a, 18, 106, 196a, 106b, 106c, 351, 352, 353, 354, 356, 356a, 357, 358, 358a, 360, 362, 364, 365, 366, 366a, 367, 368, 368a, 369, 369a, 372, 372a, 373, 377, 377b, 377c, 378, 379, 380, 380a, 380b, 381, 382, 382a, 382b, 382c, 384, 385, 386, 387, 388, 389, 390, 391, 392, 392b, 392c note, 392d note, 392e, 392f, 392g, 393, 394, 395, 396, 397, 398, 399, 399a, 399b, 399c, 399d, 399e, 399f, 400, 401, 402, 403, 404, 405, 408, 409, 410, 411, 412, 413, 414, 415; Title 18, §§ 135, 137, 138, 139, 140, 141, 142, 143; Title 39, § 324; Title 48, § 733b; Title 50 App. § 202.

SUBCHAPTER VI.—NATURALIZATION OF PERSONS SERVING IN THE ARMED FORCES OF THE UNITED STATES DURING WORLD WAR II

§§ 1001—1006. Repealed. June 27, 1952, ch. 477, title IV, § 403 (a) (42), 66 Stat. 280, eff. Dec. 24, 1952.

Section 1001, act Oct. 14, 1940, ch. 876, title III, § 701, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 182, and amended Dec. 22, 1944, ch. 662, § 1, 58 Stat. 886; Dec. 28, 1945, ch. 590, § 1 (c) (1), 59 Stat. 658, related to exceptions from certain requirements of naturalization of persons serving in the armed forces during World War II, and is now covered by section 1440 of this title.

Section 1002, act Oct. 14, 1940, ch. 876, title III, § 701, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 182, and amended Dec. 22, 1944, ch. 662, § 2, 58 Stat. 887, related to alien serving outside of jurisdiction of naturalization court, and is now covered by section 1440 of this title.

Section 1003, act Oct. 14, 1940, ch. 876, title III, § 703, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 183, related to waiver of notice to commissioner in case of alien enemy, and is now covered by section 1440 of this title.

Section 1004, act Oct. 14, 1940, ch. 876, title III, § 704, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 183, related to persons excepted from former subchapter, and is now covered by section 1440 of this title.

Section 1005, act Oct. 14, 1940, ch. 876, title III, § 705, as added Mar. 27, 1942, ch. 199, title X, § 1001, 56 Stat. 183, related to forms, rules and regulations, and is now covered by section 1440 of this title.

Section 1006, act Oct. 14, 1940, ch. 876, title III, § 706, as added Dec. 28, 1945, ch. 590, § 1 (c) (2), 59 Stat. 658, related to time of service limitation, and is now covered by section 1440 of this title.

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SUBCHAPTER I.—GENERAL PROVISIONS

§ 1101. Definitions.

(a) As used in this chapter—

(1) The term "administrator" means the administrator of the Bureau of Security and Consular Affairs of the Department of State.

(2) The term "advocates" includes, but is not limited to, advises, recommends, furthers by overt act, and admits belief in.

(3) The term "alien" means any person not a citizen or national of the United States.

(4) The term "application for admission" has reference to the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa.

(5) The term "Attorney General" means the Attorney General of the United States.

(6) The term "border crossing identification card" means a document of identity bearing that designation issued to an alien who is lawfully admitted for permanent residence, or to an alien who is a resident in foreign contiguous territory, by a consular officer or an immigration officer for the purpose of crossing over the borders between the United States and foreign contiguous territory in accordance with such conditions for its issuance and use as may be prescribed by regulations.

(7) The term "clerk of court" means a clerk of a naturalization court.

(8) The terms "Commissioner" and "Deputy Commissioner" mean the Commissioner of Immigration and Naturalization and a Deputy Commissioner of Immigration and Naturalization, respectively.

(9) The term "consular officer" means any consular, diplomatic, or other officer of the United States designated under regulations prescribed under authority contained in this chapter, for the purpose of issuing immigrant or nonimmigrant visas. In cases of aliens, in the Canal Zone and the outlying possessions of the United States, the term "consular officer" means an officer designated by the Governor of the Canal Zone, or the governors of the outlying possessions, for the purpose of issuing immigrant or nonimmigrant visas under this chapter.

(10) The term "crewman" means a person serving in any capacity on board a vessel or aircraft.

(11) The term "diplomatic visa" means a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regulations as the Secretary of State may prescribe.

(12) The term "doctrine" includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(13) The term "entry" means any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that his departure to a foreign port or place or to an outlying possession was not intended or reasonably to be expected by him or his presence in a foreign port or place or in an outlying possession was not voluntary: *Provided*, That no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception.

(14) The term "foreign state" includes outlying possessions of a foreign state, but self-governing dominions or territories under mandate or

trusteeship shall be regarded as separate foreign states.

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

(A) (i) an ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government, recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the alien's immediate family;

(ii) upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

(iii) upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

(B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

(C) an alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758);

(D) an alien crewman serving in good faith as such in any capacity required for normal operation and service on board a vessel (other than a fishing vessel having its home port or an operating base in the United States) or aircraft, who intends to land temporarily and solely in pursuit of his calling as a crewman and to depart from the United States with the vessel or aircraft on which he arrived or some other vessel or aircraft;

(E) an alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national, and the spouse and children of any such alien if accompanying or following to join him; (i) solely to carry on substantial trade, principally between the United States and the foreign state of which he is a national; or (ii) solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital;

(F) (i) an alien having a residence in a foreign country which he has no intention of

abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designed by him and approved by the Attorney General after consultation with the Office of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;

(G) (i) a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669), accredited resident members of the staff of such representatives,¹ and members of his or their immediate family;

(ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization; and the members of his immediate family;

(iv) officers, or employees of such international organizations, and the members of their immediate families;

(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;

(H) an alien having a residence in a foreign country which he has no intention of abandoning (i) who is of distinguished merit and ability and who is coming temporarily to the United States to perform temporary services of an exceptional nature requiring such merit and ability; or (ii) who is coming temporarily to the United States to perform other temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country; or (iii) who is coming temporarily to the United States as an industrial trainee;

(I) upon a basis of reciprocity, an alien who is a bona fide representative of foreign press,

radio, film, or other foreign information media, who seeks to enter the United States solely to engage in such vocation, and the spouse and children of such a representative, if accompanying or following to join him;

(J) an alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, who is coming temporarily to the United States as a participant in a program designated by the Secretary of State, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training, and the alien spouse and minor children of any such alien if accompanying him or following to join him.

(16) The term "immigrant visa" means an immigrant visa required by this chapter and properly issued by a consular officer at his office outside of the United States to an eligible immigrant under the provisions of this chapter.

(17) The term "immigration laws" includes this chapter and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

(18) The term "immigration officer" means any employee or class of employees of the Service or of the United States designated by the Attorney General, individually or by regulation, to perform the functions of an immigration officer specified by this chapter or any section of this title.

(19) The term "ineligible to citizenship," when used in reference to any individual, means, notwithstanding the provisions of any treaties relating to military service, an individual who is, or was at any time permanently debarred from becoming a citizen of the United States under section 3 (a) of the Selective Training and Service Act of 1940, as amended (54 Stat. 885; 55 Stat. 844), or under section 454 (a) of Appendix to Title 50, or under any section of this title, or any other Act, or under any law amendatory of, supplementary to, or in substitution for, any of such sections or Acts.

(20) The term "lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

(21) The term "national" means a person owing permanent allegiance to a state.

(22) The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(23) The term "naturalization" means the conferring of nationality of a state upon a person after birth, by any means whatsoever.

(24) The term "naturalization court", unless otherwise particularly described, means a court

¹ So in original. Probably should read "representative".

authorized by section 1421 (a) of this title to exercise naturalization jurisdiction.

(25) The term "noncombatant service" shall not include service in which the individual is not subject to military discipline, court martial, or does not wear the uniform of any branch of the armed forces.

(26) The term "nonimmigrant visa" means a visa properly issued to an alien as an eligible nonimmigrant by a competent officer as provided in this chapter.

(27) The term "nonquota immigrant" means—

(A) An immigrant who is the child or the spouse of a citizen of the United States;

(B) an immigrant, lawfully admitted for permanent residence, who is returning from a temporary visit abroad;

(C) an immigrant who was born in Canada, the Republic of Mexico, the Republic of Cuba, the Republic of Haiti, the Dominican Republic, the Canal Zone, or an independent country of Central or South America, and the spouse or the child of any such immigrant, if accompanying or following to join him;

(D) an immigrant who was a citizen of the United States and may, under section 1435 (a) or 1438 of this title, apply for reacquisition of citizenship;

(E) an immigrant included within the second proviso to section 1481 (a) (1) of this title;

(F) (i) an immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of carrying on the vocation of minister of a religious denomination, and whose services are needed by such religious denomination having a bona fide organization in the United States; and (ii) the spouse or the child of any such immigrant, if accompanying or following to join him; or

(G) an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: *Provided*, That the principal officer of a Foreign Service establishment, in his discretion, shall have recommended the granting of nonquota status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status.

(28) The term "organization" means, but is not limited to, an organization, corporation, company, partnership, association, trust, foundation or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together with joint action on any subject or subjects.

(29) The term "outlying possessions of the United States" means American Samoa and Swains Island.

(30) The term "passport" means any travel document issued by competent authority showing

the bearer's origin, identity, and nationality if any, which is valid for the entry of the bearer into a foreign country.

(31) The term "permanent" means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with law.

(32) The term "quota immigrant" means any immigrant who is not a nonquota immigrant. An alien who is not particularly specified in this chapter as a nonquota immigrant or a nonimmigrant shall not be admitted or considered in any manner to be either a nonquota immigrant or a nonimmigrant notwithstanding his relationship to any individual who is so specified or by reason of being excepted from the operation of any other law regulating or forbidding immigration.

(33) The term "residence" means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent. Residence shall be considered continuous for the purposes of sections 1482 and 1484 of this title where there is a continuity of stay but not necessarily an uninterrupted physical presence in a foreign state or states or outside the United States.

(34) The term "Service" means the Immigration and Naturalization Service of the Department of Justice.

(35) The term "spouse", "wife", or "husband" do not include a spouse, wife, or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated.

(36) The term "State" includes (except as used in section 1421(a) of this title) the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

(37) The term "totalitarian party" means an organization which advocates the establishment in the United States of a totalitarian dictatorship or totalitarianism. The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

(38) The term "United States", except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States.

(39) The term "unmarried", when used in reference to any individual as of any time, means an individual who at such time is not married, whether or not previously married.

(40) The term "world communism" means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist political movement.

(b) As used in subchapters I and II of this chapter—

(1) The term "child" means an unmarried person under twenty-one years of age who is—

(A) a legitimate child; or

(B) a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred; or

(C) a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in or outside the United States, if such legitimation takes place before the child reaches the age of eighteen years and the child is in the legal custody of the legitimating parent or parents at the time of such legitimation.

(D) an illegitimate child, by, through whom, or on whose behalf a status, privilege, or benefit is sought by virtue of the relationship of the child to its natural mother;

(E) a child adopted while under the age of fourteen years if the child has thereafter been in the legal custody of, and has resided with, the adopting parent or parents for at least two years: *Provided*, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter.

(F) a child who is an eligible orphan, adopted abroad by a United States citizen and spouse or coming to the United States for adoption by a United States citizen and spouse: *Provided*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage be accorded any right, privilege, or status under this chapter.

(2) The terms "parent", "father", or "mother" mean a parent, father, or mother only where the relationship exists by reason of any of the circumstances set forth in subdivision (1) of this subsection.

(3) The term "person" means an individual or an organization.

(4) The term "special inquiry officer" means any immigration officer who the Attorney General deems specially qualified to conduct specified classes of proceedings, in whole or in part, required by this chapter to be conducted by or before a special inquiry officer and who is designated and selected by the Attorney General, individually or by regulation, to conduct such proceedings. Such special inquiry officer shall be subject to such supervision and shall perform such duties, not inconsistent with this chapter, as the Attorney General shall prescribe.

(5) The term "adjacent islands" includes Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad,

Martinique, and other British, French, and Netherlands territory or possessions in or bordering on the Caribbean Sea.

(6) The term "eligible orphan" means any alien child under the age of fourteen at the time at which the visa petition is filed pursuant to section 1155(b) of this title who is an orphan because of the death or disappearance of both parents, or because of abandonment, or desertion by, or separation or loss from, both parents, or who has only one parent due to the death or disappearance of, abandonment, or desertion by, or separation or loss from the other parent, and the remaining parent is incapable of providing care for such orphan and has in writing irrevocably released him for emigration and adoption.

(c) As used in subchapter III of this chapter—

(1) The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 1431—1434 of this title, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of sixteen years, and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

(2) The terms "parent", "father", and "mother" include in the case of a posthumous child a deceased parent, father, and mother.

(d) As used in Part 3 of subchapter III of this chapter—

(1) The term "veteran" means a person who served in the armed forces of the United States at any time in an active-duty status during the period from April 21, 1898, to August 12, 1898, or from April 6, 1917, to November 11, 1918, or from December 7, 1941, to December 31, 1946, or from June 25, 1950, to July 1, 1955, all dates inclusive, and who was discharged therefrom under honorable conditions. The records of the armed forces shall be conclusive as to type of a discharge and as to whether the conditions under which a discharge was given were honorable.

(2) (A) The term "Spanish-American War" relates to the period from April 21, 1898, to August 12, 1898; (B) the term "World War I" relates to the period from April 6, 1917, to November 11, 1918; (C) the term "World War II" relates to the period from December 7, 1941, to December 31, 1946; and (D) the term "Korean hostilities" relates to the period from June 25, 1950, to July 1, 1955, all dates inclusive.

(e) For the purposes of this chapter—

(1) The giving, loaning, or promising of support or of money or any other thing of value to be used for advocating any doctrine shall constitute the advocating of such doctrine; but nothing in this paragraph shall be construed as an exclusive definition of advocating.

(2) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be presumed to

constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

(3) Advocating the economic, international, and governmental doctrines of world communism means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

(f) For the purposes of this chapter—

No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established is, or was—

(1) a habitual drunkard;

(2) one who during such period has committed adultery;

(3) a member of one or more of the classes of persons, whether excludable or not, described in paragraphs (11), (12), and (31) of section 1182 (a) of this title; or paragraphs (9), (10), and (23) of section 1182 (a) of this title, if the offense described therein, for which such person was convicted or of which he admits the commission, was committed during such period;

(4) one whose income is derived principally from illegal gambling activities;

(5) one who has been convicted of two or more gambling offenses committed during such period;

(6) one who has given false testimony for the purpose of obtaining any benefits under this chapter;

(7) one who during such period has been confined, as a result of conviction, to a penal institution for an aggregate period of one hundred and eighty days or more, regardless of whether the offense, or offenses, for which he has been confined were committed within or without such period;

(8) one who at any time has been convicted of the crime of murder.

The fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character.

(g) For the purposes of this chapter any alien ordered deported (whether before or after the enactment of this chapter) who has left the United States, shall be considered to have been deported in pursuance of law, irrespective of the source from which the expenses of his transportation were defrayed or of the place to which he departed. (June 27, 1952, ch. 477, title I, § 101, 66 Stat. 166; Sept. 11, 1957, Pub. L. 85-316, § 1, 2, 71 Stat. 639; July 7, 1958, Pub. L. 85-508, § 22, 72 Stat. 351; Mar. 18, 1959, Pub. L. 86-3, § 20 (a), 73 Stat. 13, Sept. 21, 1961, Pub. L. 87-256, § 109 (a), (b), 75 Stat. 534; Sept. 26, 1961, Pub. L. 87-301, §§ 1, 2, 7, 75 Stat. 650, 653.)

REFERENCES IN TEXT

The Headquarters Agreement with the United Nations (61 Stat. 753), referred to in subsec. (a) (15) (C), is set out as a note under section 287 of Title 22, Foreign Relations and Intercourse.

The International Organization Immunities Act (59 Stat. 669), referred to in subsec. (a) (15) (G) (i), is

classified to sections 288—288f of Title 22, Foreign Relations and Intercourse.

Section 3 (a) of the Selective Service Act of 1940, as amended (54 Stat. 885; 55 Stat. 844) referred to in subsec. (a) (19) was formerly classified to section 303 of Appendix to Title 50, War and National Defense and has been omitted as obsolete as of January 1, 1947.

AMENDMENTS

1961—Subsec. (a) (15). Pub. L. 87-256 included the alien spouse and minor children of any such alien if accompanying him or following to join him in subpar. (F), and added subpar. (J).

Subsec. (b) (1). Pub. L. 87-301, § 2, added subpar. (F).

Subsec. (b) (6). Pub. L. 87-301, § 1, added subsec. (b) (6).

Subsec. (d) (1). Pub. L. 87-301, § 7(a), inserted "or from June 25, 1950, to July 1, 1955,".

Subsec. (d) (2). Pub. 87-301, § 7(b), added the definition of Korean hostilities.

1959—Subsec. (a). Pub. L. 86-3 eliminated Hawaii from cl. (36).

1958—Subsec. (a) (36). Pub. L. 85-508 eliminated Alaska.

1957—Subsec. (b) (1). Pub. L. 85-316 inserted "whether or not born out of wedlock" in subpar. (B), and added subpars. (D) and (E).

EFFECTIVE DATE

Section 407 of act June 27, 1952, provided that: "Except as provided in subsection (k) of section 401 [section 1106 (k) of this title], this Act [this chapter] shall take effect at 12:01 ante meridian United States Eastern Standard Time on the one hundred eightieth day immediately following the date of its enactment [June 27, 1952]."

SHORT TITLE

Congress in enacting this chapter and various amendments to other laws provided in part by section 1 of Act June 26, 1952 that it should be popularly known as the "Immigration and Nationality Act". For amendments to sections of other titles, see Tables Volumes.

REPEALS

Section 403 (b) of act June 27, 1952, provided that: "Except as otherwise provided in section 405 [set out as a note under this section], all other laws, or parts of laws, in conflict or inconsistent with this Act [this chapter] are, to the extent of such conflict or inconsistency, repealed."

SAVINGS CLAUSE

Section 405 of act June 27, 1952, provided in part that: "(a) Nothing contained in this Act [this chapter], unless otherwise specifically provided therein, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certificate of citizenship, warrant of arrest, order or warrant of deportation, order of exclusion, or other document or proceeding which shall be valid at the time this Act [this chapter] shall take effect; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal done or existing, at the time this Act [this chapter] shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters the statutes or parts of statutes repealed by this Act [this chapter] are, unless otherwise specifically provided therein, hereby continued in force and effect. When an immigrant, in possession of an unexpired immigrant visa issued prior to the effective date of this Act [this chapter], makes application for admission, his admissibility shall be determined under the provisions of law in effect on the date of the issuance of such visa. An application for suspension of deportation under section 19 of the Immigration Act of 1917, as amended [former section 155 of this title], or for adjustment of status under section 4 of the Displaced Persons Act of 1948, as amended [section 1953 of Appendix to Title 50], which is pending on the date of enactment of this Act [June 27, 1952], shall be regarded as a proceeding within the meaning of this subsection.

"(b) Except as otherwise specifically provided in title III [subchapter III of this chapter], any petition for naturalization heretofore filed which may be pending at the time this Act [this chapter] shall take effect shall be heard and determined in accordance with the requirements of law in effect when such petition was filed.

"(c) Except as otherwise specifically provided in this Act [this chapter], the repeal of any statute by this Act [this chapter] shall not terminate nationality heretofore lawfully acquired nor restore nationality heretofore lost under any law of the United States or any treaty to which the United States may have been a party.

"(d) Except as otherwise specifically provided in this Act [this chapter], or any amendment thereto, fees, charges and prices for purposes specified in title V of the Independent Offices Appropriation Act, 1952 (Public Law 137, Eighty-second Congress, approved August 31, 1951), may be fixed and established in the manner and by the head of any Federal Agency as specified in that Act.

"(e) This Act [this chapter] shall not be construed to repeal, alter, or amend section 231 (a) of the Act of April 30, 1946 (60 Stat. 148; [section 1281 (a) of Title 22]), the Act of June 20, 1949 (Public Law 110, section 8, Eighty-first Congress, first session; 63 Stat. 208 [section 403h of Title 50]), the Act of June 5, 1950 (Public Law 535, Eighty-first Congress, second session [former section 1501 et seq. of Title 22]), nor title V of the Agricultural Act of 1949, as amended (Public Law 78, Eighty-second Congress, first session [sections 1461—1468 of title 7])."

SEPARABILITY OF PROVISIONS

Section 406 of act June 27, 1952, provided that: "If any particular provision of this Act [this chapter], or the application thereof to any person or circumstance, is held invalid, the remainder of the Act [this chapter] and the application of such provision to other persons or circumstances shall not be affected thereby."

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment of this section by Pub. L. 85-508 as dependent upon the admission of the State of Alaska into the Union, see section 8 (b) of Pub. L. 85-508, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

APPROPRIATIONS

Section 404 of act June 27, 1952, provided that: "There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [this chapter]."

ADDITIONAL DEFINITIONS

Many of the terms listed in this section are similarly defined in section 782 of Title 50, War and National Defense.

PHILIPPINE TRADERS AS NONIMMIGRANTS

Philippine traders as classifiable as nonimmigrants under subsec. (a) (15) (E) of this section, see section 1184a of this title.

CROSS REFERENCES

Definition of the terms—

Allen enemies, see section 21 of Title 50, War and National Defense.

Committee, see section 1106 (a) of this title.

Crew list visa, see section 1201 (f) of this title.

Order of deportation, see section 1252 (c) of this title.

Permits to enter, see section 1185 (g) of this title.

Person, see sections 1185 (d) and 1322 (e) of this title.

Religious training and belief, see section 1448 of this title.

Transportation line and transportation company, see section 1228 (e) of this title.

United States, see section 1185 (d) of this title.

United States, as used in sections 1440a—1440d, see section 1440d of this title.

Immigration and Naturalization Service, see section 342 et seq. of Title 5, Executive Departments and Government Officers and Employees.

Peace Corps programs, nonimmigrant status of foreign participants, see section 2508 of Title 22, Foreign Relations and Intercourse.

§ 1102. Diplomatic and semidiplomatic immunities.

Except as otherwise provided in this chapter, for so long as they continue in the nonimmigrant classes enumerated in this section, the provisions of this chapter relating to ineligibility to receive visas and the exclusion or deportation of aliens shall not be construed to apply to nonimmigrants—

(1) within the class described in paragraph (15) (A) (i) of section 1101 (a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15) (A) (i), and, under such rules and regulations as the President may deem to be necessary, the provisions of paragraph (27) of section 1182 (a) of this title;

(2) within the class described in paragraph (15) (G) (i) of section 1101 (a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15) (G) (i), and the provisions of paragraph (27) of section 1182 (a) of this title; and

(3) within the classes described in paragraphs (15) (A) (ii), (15) (G) (ii), (15) (G) (iii), or (15) (G) (iv) of section 1101 (a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of paragraphs (27) and (29) of section 1182 (a) of this title.

(June 27, 1952, ch. 477, title I, § 102, 66 Stat. 173.)

CROSS REFERENCES

All cases affecting ambassadors, other public ministers and consuls—

Judicial power as extending to, see Const. Art. III, § 2, cl. 1.

Supreme Court as having original jurisdiction, in, see Const. Art. III, § 2, cl. 2.

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A-I) of this title.

Nonimmigrant visa, see section 1101 (a) (26) of this title.

Passport, see section 1101 (a) (30) of this title.

Original and exclusive jurisdiction of—

District courts of all actions and proceedings against consuls or vice consuls of foreign states, see section 1351 of Title 28, Judiciary and Judicial Procedure.

Supreme Court of all actions or proceedings against ambassadors or other public ministers of foreign states or their domestics or domestic servants not inconsistent with the law of nations, see section 1251 (a), (2) of Title 28, Judiciary and Judicial Procedure.

Original but not exclusive jurisdiction of Supreme Court of all actions or proceedings brought by ambassadors or other public ministers of foreign states or to which consuls or vice consuls of foreign states are parties, see section 1251 (b) (1) of Title 28, Judiciary and Judicial Procedure.

International organizations, privileges, exemptions, and immunities of officers, employees, and their families, see section 288d of Title 22, Foreign Relations and Intercourse.

¹ So in original. Probably should read "documentation."

§ 1103. Powers and duties of the Attorney General and Commissioner; appointment of Commissioner.

(a) The Attorney General shall be charged with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens, except insofar as this chapter or such laws relate to the powers, functions, and duties conferred upon the President, the Secretary of State, the officers of the Department of State, or diplomatic or consular officers: *Provided, however,* That determination and ruling by the Attorney General with respect to all questions of law shall be controlling. He shall have control, direction, and supervision of all employees and of all the files and records of the Service. He shall establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such instructions;¹ and perform such other acts as he deems necessary for carrying out his authority under the provisions of this chapter. He is authorized, in accordance with the civil-service laws and regulations and the Classification Act of 1949, to appoint such employees of the Service as he deems necessary, and to delegate to them or to any officer or employee of the Department of Justice in his discretion any of the duties and powers imposed upon him in this chapter; he may require or authorize any employee of the Service or the Department of Justice to perform or exercise any of the powers, privileges, or duties conferred or imposed by this chapter or regulations issued thereunder upon any other employee of the Service. He shall have the power and duty to control and guard the boundaries and borders of the United States against the illegal entry of aliens and shall, in his discretion, appoint for that purpose such number of employees of the Service as to him shall appear necessary and proper. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the Department or other independent establishment under whose jurisdiction the employee is serving, any of the powers, privileges, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Service. He may, with the concurrence of the Secretary of State, establish officers of the Service in foreign countries; and, after consultation with the Secretary of State, he may, whenever in his judgment such action may be necessary to accomplish the purposes of this chapter, detail employees of the Service for duty in foreign countries.

(b) The Commissioner shall be a citizen of the United States and shall be appointed by the President, by and with the advice and consent of the Senate. He shall be charged with any and all responsibilities and authority in the administration of the Service and of this chapter which are conferred upon the Attorney General as may be delegated to him by the Attorney General or which may be prescribed by the Attorney General. (June 27, 1952, ch. 477, title I, § 103, 66 Stat. 173.)

REFERENCES IN TEXT

The civil-service laws, referred to in the text, are classified generally to Title 5, Executive Departments and Government Officers and Employees.

¹ So in original. Probably should read "instructions".

The Classification Act of 1949, referred to in the text, is classified to chapter 21 of Title 5.

CODIFICATION

Provisions of subsec. (b) which prescribed the annual compensation of the Commissioner were omitted to conform with the provisions of the Federal Executive Salary Schedule. See section 2210 et seq. of Title 5, Executive Departments and Government Officers and Employees.

CROSS REFERENCES

Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or likely to become public charges, see section 1201 (g) of this title.

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Commissioner, see section 1101 (a) (8) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigration laws, see section 1101 (a) (17) of this title.

Service, see section 1101 (a) (34) of this title.

Duty of Attorney General to provide Commissioner of Immigration and Naturalization with an office, see section 342b of Title 5, Executive Departments and Government Officers and Employees.

§ 1104. Secretary of State.

(a) Powers and duties.

The Secretary of State shall be charged with the administration and the enforcement of the provisions of this chapter and all other immigration and nationality laws relating to (1) the powers, duties, and functions of diplomatic and consular officers of the United States, except those powers, duties, and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties, and functions of the Bureau of Security and Consular Affairs; and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this chapter or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

(b) Creation of Bureau of Security and Consular Affairs; appointment and duties of Administrator.

There is established in the Department of State a Bureau of Security and Consular Affairs, to be headed by an administrator (with an appropriate title to be designated by the Secretary of State), with rank equal to that of an Assistant Secretary of State. He shall be appointed by the President by and with the advice and consent of the Senate. The administrator shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this chapter by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this chapter which are conferred on the

Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe.

(c) Passport Office, Visa Office, and other offices; directors.

Within the Bureau there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

(d) Same; transfer of duties.

The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively, of the Bureau of Security and Consular Affairs.

(e) General Counsel of Visa Office; appointment and duties.

There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this chapter.

(f) Deputy Under Secretary of State for Administration; jurisdiction.

The Bureau shall be under the immediate jurisdiction of the Deputy Under Secretary of State for Administration. (June 27, 1952, ch. 477, title I, § 104, 66 Stat. 174; June 28, 1962, Pub. L. 87-510, § 4(a) (2), 76 Stat. 123; Aug. 14, 1964, Pub. L. 88-426, title III, § 305(43), 78 Stat. 428.)

AMENDMENTS

1964—Subsec. (b). Pub. L. 88-426 repealed provisions which related to the compensation of the Administrator. See section 2211 of Title 5, Executive Departments and Government Officers and Employees.

1962—Subsec. (b). Pub. L. 87-510 provided for the appointment of the Administrator of the Bureau of Security and Consular Affairs by the President by and with the advice and consent of the Senate.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment of section by Pub. L. 88-426 effective on the first day of the first pay period which begins on or after July 1, 1964, except to the extent provided in section 501(c) of Pub. L. 88-426, see section 501 of Pub. L. 88-426, set out as a note under section 1113 of Title 5, Executive Departments and Government Officers and Employees.

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Compensation of Administrator, Bureau of Security and Consular Affairs, see section 2211 of Title 5, Executive Departments and Government Officers and Employees.

Definition of the term—

Administrator, see section 1101 (a) (1) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Immigration laws, see section 1101 (a) (17) of this title.

National, see section 1101 (a) (21) of this title.

Nonimmigrant visa, see section 1101 (a) (26) of this title.

Passport, see section 1101 (a) (30) of this title.

Service, see section 1101 (a) (34) of this title.

Deputy Under Secretaries of State, number, see section 151a of Title 5, Executive Departments and Government Officers and Employees.

Legal Adviser of the Department of State, establishment of office, appointment and rank, see sections 151b and 152a of Title 5, Executive Department and Government Officers and Employees.

§ 1105. Liaison with internal security officers.

The Commissioner and the administrator shall have authority to maintain direct and continuous liaison with the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency and with other internal security officers of the Government for the purpose of obtaining and exchanging information for use in enforcing the provisions of this chapter in the interest of the internal security of the United States. The Commissioner and the administrator shall maintain direct and continuous liaison with each other with a view to a coordinated, uniform, and efficient administration of this chapter, and all other immigration and nationality laws. (June 27, 1952, ch. 477, title I, § 105, 66 Stat. 175.)

CROSS REFERENCES

Central Intelligence Agency, see sections 403—463j of Title 50, War and National Defense.

Definition of the term—

Administrator, see section 1101 (a) (1) of this title.

Commissioner, see section 1101 (a) (8) of this title.

Immigration laws, see section 1101 (a) (17) of this title.

Internal security, see chapter 23 of Title 50, War and National Defense.

§ 1105a. Judicial review of orders of deportation and exclusion.

(a) Exclusiveness of procedure.

The procedure prescribed by, and all the provisions of sections 1031—1042 of Title 5, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of deportation heretofore or hereafter made against aliens within the United States pursuant to administrative proceedings under section 1252(b) of this title or comparable provisions of any prior Act, except that—

Time for filing petition.

(1) a petition for review may be filed not later than six months from the date of the final deportation order or from the effective date of this section, whichever is the later.

Venue.

(2) the venue of any petition for review under this section shall be in the judicial circuit in which the administrative proceedings before a special inquiry officer were conducted in whole or in part, or in the judicial circuit wherein is the residence, as defined in this chapter, of the petitioner, but not in more than one circuit;

Respondent; service of petition; stay of deportation.

(3) the action shall be brought against the Immigration and Naturalization Service, as respondent. Service of the petition to review shall be made upon the Attorney General of the United States and upon the official of the Immigration and Naturalization

Service in charge of the Service district in which the office of the clerk of the court is located. The service of the petition for review upon such official of the Service shall stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;

Determination upon administrative record.

(4) except as provided in clause (B) of paragraph (5) of this subsection, the petition shall be determined solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive;

Claim of nationality; determination or transfer to district court for hearing de novo.

(5) whenever any petitioner, who seeks review of an order under this section, claims to be a national of the United States and makes a showing that his claim is not frivolous, the court shall (A) pass upon the issues presented when it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; or (B) where a genuine issue of material fact as to the petitioner's nationality is presented, transfer the proceedings to a United States district court for the district where the petitioner has his residence for hearing de novo of the nationality claim and determination as if such proceedings were originally initiated in the district court under the provisions of section 2201 of Title 28. Any such petitioner shall not be entitled to have such issue determined under section 1503(a) of this title or otherwise;

Challenge of validity of deportation order in criminal proceedings; motion for judicial review before trial; hearing de novo on nationality claim; determination of motion; dismissal of indictment upon invalidity of order; appeal.

(6) if the validity of a deportation order has not been judicially determined, its validity may be challenged in a criminal proceeding against the alien for violation of subsection (d) or (e) of section 1252 of this title only by separate motion for judicial review before trial. Such motion shall be determined by the court without a jury and before the trial of the general issue. Whenever a claim to United States nationality is made in such motion, and in the opinion of the court, a genuine issue of material fact as to the alien's nationality is presented, the court shall accord him a hearing de novo on the nationality claim and determine that issue as if proceedings had been initiated under the provisions of section 2201 of Title 28. Any such alien shall not be entitled to have such issue determined under section 1503(a) of this title or otherwise. If no such hearing de novo as to nationality is conducted, the determination shall be made solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial and probative evidence on the record considered as a whole, shall be conclusive. If the deportation order is held invalid, the court shall dismiss the indictment and the United States shall have the right to appeal to the court of appeals within thirty days. The procedure on such appeals shall

be as provided in the Federal rules of criminal procedure. No petition for review under this section may be filed by any alien during the pendency of a criminal proceeding against such alien for violation of subsection (d) or (e) of section 1252 of this title;

Deferment of deportation; compliance of alien with other provisions of law; detention or taking into custody of alien.

(7) nothing in this section shall be construed to require the Attorney General to defer deportation of an alien after the issuance of a deportation order because of the right of judicial review of the order granted by this section, or to relieve any alien from compliance with subsections (d) and (e) of section 1252 of this title. Nothing contained in this section shall be construed to preclude the Attorney General from detaining or continuing to detain an alien or from taking him into custody pursuant to subsection (c) of section 1252 of this title at any time after the issuance of a deportation order;

Typewritten record and briefs.

(8) it shall not be necessary to print the record or any part thereof, or the briefs, and the court shall review the proceedings on a typewritten record and on typewritten briefs; and

Habeas corpus.

(9) any alien held in custody pursuant to an order of deportation may obtain judicial review thereof by habeas corpus proceedings.

(b) Limitation of certain aliens to habeas corpus proceedings.

Notwithstanding the provisions of any other law, any alien against whom a final order of exclusion has been made heretofore or hereafter under the provisions of section 1226 of this title or comparable provisions of any prior Act may obtain judicial review of such order by habeas corpus proceedings and not otherwise.

(c) Exhaustion of administrative remedies or departure from United States; disclosure of prior judicial proceedings.

An order of deportation or of exclusion shall not be reviewed by any court if the alien has not exhausted the administrative remedies available to him as of right under the immigration laws and regulations or if he has departed from the United States after the issuance of the order. Every petition for review or for habeas corpus shall state whether the validity of the order has been upheld in any prior judicial proceeding, and, if so, the nature and date thereof, and the court in which such proceeding took place. No petition for review or for habeas corpus shall be entertained if the validity of the order has been previously determined in any civil or criminal proceeding, unless the petition presents grounds which the court finds could not have been presented in such prior proceeding, or the court finds that the remedy provided by such prior proceeding was inadequate or ineffective to test the validity of the order. (June 27, 1952, ch. 477, title I, § 106, as added Sept. 26, 1961, Pub. L. 87-301, § 5(a), 75 Stat. 651.)

REFERENCES IN TEXT

"Effective date of this section", referred to in subsec. (a) (1), means the effective date of Pub. L. 87-301. See effective date note below.

EFFECTIVE DATE; PENDING PROCEEDINGS; SEPARABILITY OF PROVISIONS

Section 5(b) of Pub. L. 87-301 provided that: "This section shall take effect on the thirtieth day after its approval [Sept. 20, 1961] and, notwithstanding the provisions of any other law, including section 405 of the Immigration and Nationality Act [set out as a note under section 1101 of this title], shall then be applicable to all administrative proceedings involving deportation or exclusion of aliens notwithstanding (1) that the person involved entered the United States prior to the effective date of this section or of the Immigration and Nationality Act [this chapter] or (2) that the administrative proceeding was commenced or conducted prior to the effective date of this section or of the Immigration and Nationality Act [this chapter]. Any judicial proceeding to review an order of deportation which is pending unheard in any district court of the United States on the effective date of this section (other than a habeas corpus or criminal proceeding in which the validity of the deportation order has been challenged) shall be transferred for determination in accordance with this section to the court of appeals having jurisdiction to entertain a petition for review under this section. Any judicial proceeding to review an order of exclusion which is pending unheard on the effective date of this section shall be expedited in the same manner as is required in habeas corpus. All laws or parts of laws inconsistent with this section are, to the extent of such inconsistency, repealed. If any particular provision of this section, or the application thereof to any person or circumstance, is held invalid, the remainder of this section and the application of such provision to other persons or circumstances shall not be affected thereby."

§ 1106. Joint Congressional Committee.

(a) Composition.

There is established a joint congressional committee to be known as the Joint Committee on Immigration and Nationality Policy (hereinafter referred to as the "Committee") to be composed of ten members as follows: (1) five members who are members of the Committee on the Judiciary of the Senate, three from the majority and two from the minority party to be appointed by the President of the Senate; and (2) five members who are members of the Committee on the Judiciary of the House of Representatives, three from the majority and two from the minority party to be appointed by the Speaker of the House of Representatives.

(b) Necessity of membership on House or Senate Committees on the Judiciary.

No person shall continue to serve as a member of the Committee after he has ceased to be a member of the Committee on the Judiciary of either the Senate or the House of Representatives.

(c) Vacancies; election of chairman.

A vacancy in the membership of the Committee shall be filled in the same manner as the original selection and the Committee shall elect a Chairman from among its members.

(d) Functions.

It shall be the function of the Committee to make a continuous study of (1) the administration of this chapter, and its effect on the national security, the economy, and the social welfare of the United States, and (2) such conditions within or without the United States which in the opinion of the Committee might have any bearing on the immigration and nationality policy of the United States.

(e) Reports.

The Committee shall make from time to time a report to the Senate and the House of Representatives concerning the results of its studies together with such recommendations as it may deem desirable.

(f) Submission of regulations to Committee.

The Secretary of State and the Attorney General shall without delay submit to the Committee all regulations, instructions, and all other information as requested by the Committee relative to the administration of this chapter; and the Secretary of State and the Attorney General shall consult with the Committee from time to time with respect to their activities under this chapter.

(g) Hearings; subpoena.

The Committee or any duly authorized Subcommittee thereof is authorized to hold such hearings; to sit and act at such times and places; to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents; to administer such oaths; to take such testimony; to procure such printing and binding as it deems advisable. The provisions of sections 192 and 194 of Title 2 shall apply in case of any failure of any witnesses to comply with any subpoena or to testify when summoned under the authority of this chapter.

(h) Travel expenses.

The members of the Committee shall serve without compensation in addition to that received for their services as Members of Congress but they shall be reimbursed for travel, subsistence, and other expenses incurred by them in the performance of the duties vested in the Committee other than expenses in connection with meetings of the Committee held in the District of Columbia during such times as the Congress is in session.

(i) Employment of personnel.

The Committee is authorized, without regard to the civil service laws or the Classification Act of 1949, to appoint and fix the compensation of such clerks, experts, consultants, and clerical and stenographic assistants as it deems necessary and advisable. The Committee is authorized to reimburse the members of its staff for travel, subsistence and the other necessary expenses incurred by them in the performance of the duties vested in the Committee other than expenses in connection with meetings of the Committee held in the District of Columbia during such times as the Congress is in session. The chairman of the Committee on the Judiciary of the Senate and the chairman of the Committee on the Judiciary of the House of Representatives may assign members of the staff of the said committees to serve on the staff of the Committee, without additional compensation, except for the reimbursement of expenses incurred by such staff members as prescribed in this subsection.

(j) Payment of Committee expenses.

The expenses of the Committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of

Representatives, upon vouchers signed by the Chairman of the Committee or by any member of the Committee duly authorized by the Chairman.

(k) Effective date.

This section shall take effect on June 27, 1952. (June 27, 1952, ch. 477, title IV, § 401, 66 Stat. 274.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (i), are classified generally to Title 5, Executive Departments and Government Officers and Employees.

The Classification Act of 1949, referred to in subsec. (i), is classified to chapter 21 of Title 5.

CROSS REFERENCES

Contingent fund of Senate or House of Representatives—

Long-distance telephone calls for Senators made to and from, and originating and terminating outside Washington, D. C., see sections 46c and 46d of Title 2, The Congress.

Payments from fund of House, see sections 95 and 97 of Title 2, The Congress.

Payments from fund of Senate, see section 68 of Title 2, The Congress.

Payments from fund of Senate for expenses of committees, see section 69 of Title 2, The Congress.

Payments from fund of Senate for materials, supplies and fuel, see section 68a of Title 2, The Congress.

Revolving fund for stationery allowances, see sections 46a-1 and 46b-1 of this title.

Statement of expenditures in preceding year, see section 102 of Title 2, The Congress.

Telegram allowance for Senators, see section 46e of Title 2, The Congress.

Telephone, telegraph and radiotelegraph allowances for Representatives, see sections 46f and 46g of Title 2, The Congress.

Definition of the term, Attorney General, see section 1101 (a) (5) of this title.

SUBCHAPTER II.—IMMIGRATION

PART I.—QUOTA SYSTEM

§ 1151. Annual quota.

(a) Numerical limitation; Chinese quota.

The annual quota of any quota area shall be one-sixth of 1 per centum of the number of inhabitants in the continental United States in 1920, which number, except for the purpose of computing quotas for quota areas within the Asia-Pacific triangle, shall be the same number heretofore determined under the provisions of section 11 of the Immigration Act of 1924, attributable by national origin to such quota area: *Provided*, That the quota existing for Chinese persons prior to June 27, 1952, shall be continued, and, except as otherwise provided in section 1152 (e) of this title, the minimum quota for any quota area shall be one hundred.

(b) Determination of annual quota; report to President; effective date of quotas.

The determination of the annual quota of any quota area shall be made by the Secretary of State, the Secretary of Commerce, and the Attorney General, jointly. Such officials shall, jointly, report to the President the quota of each quota area, and the President shall proclaim and make known the quotas so reported. Such determination and report shall be made and such proclamation shall be issued as soon as practicable after June 27, 1952. Quotas proclaimed therein shall take effect on the first day of the fiscal year, or the next fiscal half year, next

following the expiration of six months after the date of the proclamation, and until such date the existing quotas proclaimed under the Immigration Act of 1924 shall remain in effect. After the making of a proclamation under this subsection the quotas proclaimed therein shall continue with the same effect as if specifically stated herein and shall be final and conclusive for every purpose, except (1) insofar as it is made to appear to the satisfaction of such officials and proclaimed by the President, that an error of fact has occurred in such determination or in such proclamation, or (2) in the case provided for in section 1152 (e) of this title.

(c) Limitation on immigrant visas.

There shall be issued to quota immigrants chargeable to any quota (1) no more immigrant visas in any fiscal year than the quota for such year, and (2) in any calendar month of any fiscal year, no more immigrant visas than 10 per centum of the quota for such year; except that during the last two months of any fiscal year immigrant visas may be issued without regard to the 10 per centum limitation contained herein.

(d) Issuance of immigrant visas to nonquota immigrants.

Nothing in this chapter shall prevent the issuance (without increasing the total number of quota immigrant visas which may be issued) of an immigrant visa to an immigrant as a quota immigrant even though he is a nonquota immigrant.

(e) Reduction of annual quotas.

The quota numbers available under the annual quotas of each quota area proclaimed under this chapter shall be reduced by the number of quota numbers which have been ordered to be deducted from the annual quotas authorized prior to the effective date of the annual quotas proclaimed under this chapter under—

(1) section 19 (c) of the Immigration Act of 1917, as amended;

(2) the Displaced Persons Act of 1948, as amended; and

(3) any other Act of Congress enacted prior to the effective date of the quotas proclaimed under this chapter.

(June 27, 1952, ch. 477, title II, ch. 1, § 201, 66 Stat. 175.)

REFERENCES IN TEXT

Section 11 of the Immigration Act of 1924, referred to in subsec. (a) and formerly classified to section 211 of this title, was repealed by section 403 (a) (23) of act June 27, 1952 and is now covered by subsecs. (a—d) of this section.

The Displaced Persons Act of 1948, as amended, referred to in subsec. (e) (2), is classified to sections 1951—1965 of Appendix to Title 50, War and National Defense.

The Immigration Act of 1924, referred to in subsec. (b), was formerly classified to sections 145, 146, 166, 167, 179, 201—204, 205—213, 214—226 and 229 of this title. Section 220 was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and the remaining sections were repealed by section 403 (a) (13, 23, 24) of act June 27, 1952.

Section 19 (c) of the Immigration Act of 1917, as amended, referred to in subsec. (e) (1) and formerly classified to section 155 (c) of this title, was repealed by section 403 (a) (13) of act June 27, 1952 and is now covered by sections 1254 (a) (1, 2) and 1351 of this title.

TERMINATION OF QUOTA DEDUCTIONS

Section 10 of Pub. L. 85-316, Sept. 11, 1957, 71 Stat. 642, provided that:

"The quota deductions required under the provisions of the following Acts are terminated effective July 1, 1957—

"(1) section 201 (e) (2) of the Immigration and Nationality Act [subsec. (e) (2) of this section];

"(2) the Displaced Persons Act of 1948, as amended (62 Stat. 1009, 64 Stat. 219; 65 Stat. 96) [sections 1951—1956 and 1958—1965 of Appendix to Title 50];

"(3) the Act of June 30, 1950 (64 Stat. 306) [set out as note under section 1184 of this title]; and

"(4) the Act of April 9, 1952 (66 Stat. 50) [set out as note under section 1184 of this title]."

PROCLAMATION No. 2980

Proc. No. 2980, July 2, 1952, 17 F.R. 6019, as amended by Proc. No. 3147, July 10, 1956, 21 F.R. 5127; Proc. No. 3158, Sept. 27, 1956, 21 F.R. 7425; Proc. No. 3188A, July 1, 1957, 22 F.R. 4629; Proc. No. 3206, Oct. 14, 1957, 22 F.R. 8133; and Proc. No. 3248, June 24, 1958, 23 F.R. 4667, which established immigration quotas, was revoked by Proc. No. 3298, set out below.

PROCLAMATION No. 3298. IMMIGRATION QUOTAS

Proclamation No. 3298, June 3, 1959, 24 F.R. 4679, as amended by Proc. No. 3372, Sept. 23, 1960, 25 F.R. 9283; Proc. No. 3376, Oct. 27, 1960, 25 F.R. 10387; Proc. No. 3384, Dec. 21, 1960, 25 F.R. 13681; Proc. No. 3417, June 12, 1961, 26 F.R. 5387; Proc. No. 3441, Dec. 1, 1961, 26 F.R. 11937; Proc. No. 3503, Oct. 23, 1962, 27 F.R. 10399; Proc. No. 3569, Jan. 7, 1964, 29 F.R. 247; Proc. No. 3570, Jan. 7, 1964, 29 F.R. 249; Proc. No. 3587, Apr. 30, 1964, 29 F.R. 5933; Proc. No. 3613, Sept. 4, 1964, 29 F.R. 12815; Proc. No. 3626, Oct. 31, 1964, 29 F.R. 14913, provided:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the aforesaid Act of Congress, do hereby proclaim and make known that the annual quotas of the quota areas hereinafter designated have been determined in accordance with the law to be, and shall be, as follows:

QUOTA AREA	
Afghanistan.....	100
Albania.....	100
Algeria.....	574
Andorra.....	100
Arabian Peninsula.....	100
Asia-Pacific.....	100
Australia.....	100
Austria.....	1,405
Belgium.....	1,297
Bhutan.....	100
Bulgaria.....	100
Burma.....	100
Burundi.....	100
Cambodia.....	100
Cameroon.....	151
Central African Republic.....	100
Ceylon.....	100
Chad.....	100
China.....	100
Chinese Persons.....	105
Congo.....	100
Congo, Republic of the.....	100
Cyprus.....	100
Czechoslovakia.....	2,859
Dahomey.....	100
Danzig, Free City of.....	100
Denmark.....	1,175
Estonia.....	115
Ethiopia.....	100
Finland.....	566
France.....	3,069
Gabon.....	100
Germany.....	25,814
Ghana.....	100
Great Britain and Northern Ireland.....	65,361
Greece.....	308
Guinea.....	100
Hungary.....	865

QUOTA AREA	
Iceland.....	100
India.....	100
Indonesia.....	200
Iran (Persia).....	100
Iraq.....	100
Ireland (Eire).....	17,756
Israel.....	100
Italy.....	5,666
Ivory Coast.....	100
Jamaica.....	100
Japan.....	185
Jordan.....	100
Kenya.....	100
Korea.....	100
Kuwait.....	100
Laos.....	100
Latvia.....	235
Lebanon.....	100
Liberia.....	100
Libya.....	100
Liechtenstein.....	100
Lithuania.....	384
Luxembourg.....	100
Malagasy Republic.....	100
Malawi.....	100
Malaya (Federation of).....	100
Malaysia.....	400
Mali.....	100
Mauritania.....	100
Monaco.....	100
Morocco.....	100
Muscat (Oman).....	100
Nauru (trust territory, Australia).....	100
Nepal.....	100
Netherlands.....	3,136
New Guinea (trust territory, Australia).....	100
New Zealand.....	100
Niger.....	100
Nigeria.....	149
Norway.....	2,364
Pacific Islands (trust territory, United States administered).....	100
Pakistan.....	100
Palestine (Arab Palestine).....	100
Philippines.....	100
Poland.....	6,488
Portugal.....	438
Rumania.....	289
Rwanda.....	100
San Marino.....	100
Saudi Arabia.....	100
Senegal.....	100
Sierra Leone.....	100
Somali Republic.....	100
South-West Africa (mandate).....	100
Spain.....	250
Sudan.....	100
Sweden.....	3,295
Switzerland.....	1,698
Syria.....	100
Tanganyika.....	100
Thailand (Siam).....	100
Togo.....	100
Tonga, Kingdom of.....	100
Trinidad and Tobago.....	100
Tunisia.....	100
Turkey.....	225
Uganda.....	100
Union of South Africa.....	100
Union of Soviet Socialist Republics.....	2,697
United Arab Republic.....	100
Upper Volta.....	100
Vietnam.....	100
Western Samoa.....	100
Yemen.....	100
Yugoslavia.....	942

The establishment of an immigration quota for any quota area is solely for the purpose of compliance with the pertinent provisions of the Immigration and Nationality Act [this chapter] and is not to be considered as having any significance extraneous to such purpose.

The following proclamations regarding immigration quotas are hereby revoked: Proclamation No. 2980 of June 30, 1952; Proclamation No. 3147 of July 9, 1956; Proclamation No. 3158 of September 20, 1956; Proclamation No. 3188A of June 26, 1957; Proclamation No. 3206 of October 10, 1957; and Proclamation No. 3248 of June 20, 1958.

CROSS REFERENCES

Definition of the term—

- Immigrant, see section 1101 (a) (15) of this title.
- Immigrant visa, see section 1101 (a) (16) of this title.
- National, see section 1101 (a) (21) of this title.
- Nonquota immigrant, see section 1101 (a) (27) of this title.
- Quota immigrant, see section 1101 (a) (32) of this title.

§ 1152. Determination of quota to which an immigrant is chargeable.

(a) Separate quota areas; determination by birth.

Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions and the countries specified in section 1101 (a) (27) (C) of this title, shall be treated as a separate quota area when approved by the Secretary of State. All other inhabited lands shall be attributed to a quota area specified by the Secretary of State. For the purposes of this chapter, the annual quota to which an immigrant is chargeable shall be determined by birth within a quota area, except that—

(1) an alien child, when accompanied by his alien parent or parents may be charged to the quota of the accompanying parent or of either accompanying parent if such parent has received or would be qualified for an immigrant visa, if necessary to prevent the separation of the child from the accompanying parent or parents, and if the quota to which such parent has been or would be chargeable is not exhausted for that fiscal year;

(2) if an alien is chargeable to a different quota from that of his accompanying spouse, the quota to which such alien is chargeable may, if necessary to prevent the separation of husband and wife, be determined by the quota of the accompanying spouse, if such spouse has received or would be qualified for an immigrant visa and if the quota to which such spouse has been or would be chargeable is not exhausted for that fiscal year;

(3) an alien born in the United States shall be considered as having been born in the country of which he is a citizen or subject, or if he is not a citizen or subject of any country then in the last foreign country in which he had his residence as determined by the consular officer;

(4) an alien born within any quota area in which neither of his parents was born and in which neither of his parents had a residence at the time of such alien's birth may be charged to the quota area of either parent;

(5) notwithstanding the provisions of paragraphs (2)—(4) of this subsection, any alien who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle defined in subsection (b) of this section, unless such alien is entitled to a non-

quota immigrant status under paragraph (27) (A), (27) (B), (27) (D), (27) (E), (27) (F), or (27) (G) of section 1101 (a) of this title, shall be chargeable to a quota as specified in subsection (b) of this section: *Provided*, That the child of an alien defined in section 1101 (a) (27) (C) of this title, if accompanying or following to join him, shall be classified under section 1101 (a) (27) (C) of this title, notwithstanding the provisions of subsection (b) of this section.

(b) Asia-Pacific quota of 100 annually; determination.

With reference to determination of the quota to which shall be chargeable an immigrant who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle comprising all quota areas and all colonies and other dependent areas situate wholly east of the meridian sixty degrees east of Greenwich, wholly west of the meridian one hundred and sixty-five degrees west, and wholly north of the parallel twenty-five degrees south latitude—

(1) there is established, in addition to quotas for separate quota areas comprising independent countries, self-governing dominions, and territories under the international trusteeship system of the United Nations situate wholly within said Asia-Pacific triangle, an Asia-Pacific quota of one hundred annually, which quota shall not be subject to the provisions of subsection (c) of this section;

(2) such immigrant born within a separate quota area situate wholly within such Asia-Pacific triangle shall not be chargeable to the Asia-Pacific quota, but shall be chargeable to the quota for the separate quota area in which he was born;

(3) such immigrant born within a colony or other dependent area situate wholly within said Asia-Pacific triangle shall be chargeable to the Asia-Pacific quota;

(4) such immigrant born outside the Asia-Pacific triangle who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to not more than one separate quota area situate wholly within the Asia-Pacific triangle, shall be chargeable to the quota or that quota area;

(5) such immigrant born outside the Asia-Pacific triangle who is attributable by as much as one-half of his ancestry to a people or peoples indigenous to one or more colonies or other dependent areas situate wholly within the Asia-Pacific triangle, shall be chargeable to the Asia-Pacific quota;

(6) such immigrant born outside the Asia-Pacific triangle who is attributable by as much as one-half of his ancestry to peoples indigenous to two or more separate quota areas situate wholly within the Asia-Pacific triangle, or to a quota area or areas and one or more colonies and other dependent areas situate wholly therein, shall be chargeable to the Asia-Pacific quota.

(c) Chargeability of immigrants born in a colony or dependency.

Any immigrant born in a colony or other component or dependent area of a governing country for which no separate or specific quota has been

established, unless a nonquota immigrant as provided in section 1101 (a) (27) of this title, shall be chargeable to the quota of the governing country, except that (1) not more than one hundred persons born in any one such colony or other component or dependent area overseas from the government country shall be chargeable to the quota of its governing country in any one year, and (2) any such immigrant, if attributable by as much as one-half of his ancestry to a people or peoples indigenous to the Asia-Pacific triangle, shall be chargeable to a quota as provided in subsection (b) of this section.

(d) Immigration quota as not effecting political recognition.

The provision of an immigration quota for a quota area shall not constitute recognition by the United States of the political transfer of territory from one country to another, or recognition of a government not recognized by the United States.

(e) Revision of quotas.

After the determination of quotas has been made as provided in section 1151 of this title, revision of the quotas shall be made by the Secretary of State, the Secretary of Commerce, and the Attorney General, jointly, whenever necessary, to provide for any change of boundaries resulting in transfer of territory from one sovereignty to another, a change of administrative arrangements of a colony or other dependent area, or any other political change, requiring a change in the list of quota areas or of the territorial limits thereof. In the case of any change in the territorial limits of quota areas, not requiring a change in the quotas for such areas, the Secretary of State shall, upon recognition of such change, issue appropriate instructions to all consular offices concerning the change in the territorial limits of the quota areas involved. Whenever one or more colonies or other component or dependent areas overseas from the governing country, or one or more quota areas have been subject to a change of administrative arrangements, a change of boundaries, or any other political change, the annual quota of the newly established quota area or the number of visas authorized to be issued under subsection (c) (1) of this section, notwithstanding any other provisions of this chapter, shall not be less than the sum total of quotas in effect or number of visas authorized for the area immediately preceding the change of administrative arrangements, change of boundaries, or other political change. (June 27, 1952, ch. 477, title II, ch. 1, § 202, 66 Stat. 176; Sept. 26, 1961, Pub. L. 87-301, § 9, 75 Stat. 654.)

AMENDMENTS

1961—Subsec. (e). Pub. L. 87-301 provided that if an area undergoes a change of administrative arrangements, boundaries, or other political change, the annual quota of the newly established area, or the visas authorized to be issued shall not be less than the total of quotas in effect or visas authorized for the area immediately preceding the change, and deleted provisions which in the event of an increase in minimum quota areas above twenty in the Asia-Pacific triangle, would proportionately decrease each quota of the area so the sum of all area quotas did not exceed two thousand.

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Child, see section 1101 (b) (1), (c) (1) of this title.
Consular officer, see section 1101 (a) (9) of this title.

Immigrant, see section 1101 (a) (15) of this title.
Immigrant visa, see section 1101 (a) (16) of this title.

Nonquota immigrant, see section 1101 (a) (27) of this title.

Outlying possessions of the United States, see section 1101 (a) (29) of this title.

Parent, see section 1101 (a) (29), (b) (2) of this title.

Residence, see section 1101 (a) (33) of this title.

Spouse, wife, or husband, see section 1101 (a) (35) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1153. Allotment of immigrant visas within quotas; order of issuance; determination.

(a) Immigrant visas to quota immigrants shall be allotted in each fiscal year as follows:

(1) The first 50 per centum of the quota of each quota area for such year, plus any portion of such quota not required for the issuance of immigrant visas to the classes specified in paragraphs (2) and (3) of this subsection, shall be made available for the issuance of immigrant visas (A) to qualified quota immigrants whose services are determined by the Attorney General to be needed urgently in the United States because of the high education, technical training, specialized experience, or exceptional ability of such immigrants and to be substantially beneficial prospectively to the national economy, cultural interests, or welfare of the United States, and (B) to qualified quota immigrants who are the spouse or children of any immigrant described in clause (A) of this paragraph if accompanying or following to join him.

(2) the next 30 per centum of the quota for each quota area for such year, plus any portion of such quota not required for the issuance of immigrant visas to the classes specified in paragraphs (1) and (3) of this subsection, shall be made available for the issuance of immigrant visas to qualified quota immigrants who are the parents of citizens of the United States, such citizens beings at least twenty-one years of age or who are the unmarried sons or daughters of citizens of the United States.

(3) The remaining 20 per centum of the quota for each quota area for such year, plus any portion of such quota not required for the issuance of immigrant visas to the classes specified in paragraphs (1) and (2) of this subsection, shall be made available for the issuance of immigrant visas to qualified quota immigrants who are the spouses or the unmarried sons or daughters of aliens lawfully admitted for permanent residence.

(4) Any portion of the quota for each quota area for such year not required for the issuance of immigrant visas to the classes specified in paragraphs (1)—(3) of this subsection shall be made available for the issuance of immigrant visas to other qualified quota immigrants chargeable to such quota. Qualified quota immigrants of each quota area who are the brothers, sisters, married sons or married daughters of citizens of the United States shall be entitled to a preference of not exceeding 50 per centum of the immigrant visas available for issuance for each quota area

under this paragraph, and such preference shall be available to the spouses and children of such qualified quota immigrants if accompanying them.

(b) Quota immigrant visas issued pursuant to paragraph (1) of subsection (a) of this section shall, in the case of each quota area, be issued to eligible quota immigrants in the order in which a petition on behalf of each such immigrant is filed with the Attorney General as provided in section 1154 of this title; and shall be issued in the first calendar month after receipt of notice of approval of such petition in which a quota number is available for an immigrant chargeable to such quota area.

(c) Quota immigrant visas issued to aliens in the classes designated in paragraphs (2)—(4) of subsection (a) of this section shall, in the case of each quota, be issued to qualified quota immigrants strictly in the chronological order in which such immigrants are registered in each class on quota waiting lists which shall be maintained for each quota in accordance with regulations prescribed by the Secretary of State.

(d) In determining the order for consideration of applications for quota immigrant visas under subsection (a) of this section, consideration shall be given first to applications under paragraph (1), second to applications under paragraph (2), third to applications under paragraph (3), and fourth to applications under paragraph (4).

(e) Every immigrant shall be presumed to be a quota immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and to the immigration officers, at the time of application for admission, that he is a nonquota immigrant. Every quota immigrant shall be presumed to be a nonpreference quota immigrant until he establishes to the satisfaction of the consular officer and the immigration officers that he is entitled to a preference quota status under paragraphs (1), (2), or (3) of subsection (a) of this section or to a preference under paragraph (4) of such subsection. (June 27, 1952, ch. 477, title II, ch. 1, § 203, 66 Stat. 178; Sept. 11, 1957, Pub. L. 85-316, § 3, 71 Stat. 639; Sept. 22, 1959, Pub. L. 86-363, §§ 1-3, 73 Stat. 644.)

AMENDMENTS

1959—Subsec. (a)(2). Pub. L. 86-368, § 1, accorded adult unmarried sons or daughters of United States citizens second preference in the allocation of immigrant visas within quotas.

Subsec. (a)(3). Pub. L. 86-363, § 2, substituted "unmarried sons or daughters" for "children".

Subsec. (a)(4). Pub. L. 86-363, § 3, substituted "married sons or married daughters" for "sons, or daughters", increased the percentage limitation from 25 to 50 per centum, and made the preference available to spouses and children of qualified quota immigrants if accompanying them.

1957—Subsec. (a)(1). Pub. L. 85-316, substituted "or following to join him" for "him".

NONQUOTA IMMIGRANT STATUS OF CERTAIN RELATIVES OF UNITED STATES CITIZENS; ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF PETITIONS FILED PRIOR TO JAN. 1, 1962

Pub. L. 87-885, § 1, Oct. 24, 1962, 76 Stat. 12477, provided: "That any alien who (1) is registered on a consular waiting list pursuant to section 203(c) of the Immigration and Nationality Act [subsec. (c) of this section]

under priority date earlier than March 31, 1954, and (2) is eligible for a quota immigrant status under the provisions of section 203(a)(4) of the said Act [subsec. (a)(4) of this section] on a basis of a petition filed with the Attorney General prior to January 1, 1962, and the spouse and children of such alien, shall be held to be nonquota immigrants and if otherwise admissible under the provisions of the Immigration and Nationality Act [this chapter], shall be issued nonquota immigrant visas: *Provided*, That, upon his application for an immigrant visa and for his admission into the United States, the alien is found to have retained his relationship to the petitioner and status as established in the approved petition."

NONQUOTA IMMIGRANT STATUS OF SKILLED SPECIALISTS; ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF PETITIONS FILED PRIOR TO APR. 1, 1962

Pub. L. 87-885, § 2, Oct. 24, 1962, 76 Stat. 1247, provided that: "Any alien eligible for a quota immigrant status under the provisions of section 203(a)(1) of the Immigration and Nationality Act [subsec. (a)(1) of this section] on the basis of a petition filed with the Attorney General prior to April 1, 1962, shall be held to be a nonquota immigrant and may be issued a nonquota immigrant visa: *Provided*, That, upon his application for an immigration visa and for admission to the United States or for adjustment of his immigrant status in the United States pursuant to section 245 of the Immigration and Nationality Act [section 1255 of this title] the alien is found to have retained his status as established in the approved petition. This section shall be applicable only to aliens admissible to the United States except for the fact that an immigrant visa is not promptly available for issuance to them because the first 50 per centum of the quota of the quota area to which they are chargeable is oversubscribed by beneficiaries of petitions approved by the Attorney General pursuant to sections 203(a)(1) and 204 of the Immigration and Nationality Act [subsec. (a)(1) of this section and section 1154 of this title] prior to the date of enactment of this Act [Oct. 24, 1962]."

ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF PETITIONS FILED PRIOR TO JULY 1, 1961

Section 25 of Pub. L. 87-301 provided that:

"(a) Any alien eligible for a quota immigrant status under the provisions of section 203(a)(2) or (3) of the Immigration and Nationality Act [subsection (a)(2) or (3) of this section] on the basis of a petition filed with the Attorney General prior to July 1, 1961, shall be held to be a nonquota immigrant and, if otherwise admissible under the provisions of that Act [this chapter], shall be issued a nonquota immigrant visa: *Provided*, That, upon his application for an immigrant visa, and for admission to the United States, the alien is found to have retained his relationship to the petitioner, and status, as established in the approved petition.

"(b) At any time prior to the expiration of the one hundred and eightieth day immediately following the enactment of this Act [Sept. 26, 1961] a special nonquota immigrant visa may be issued to an eligible orphan as defined in section 4 of the Act of September 11, 1957, as amended (8 U.S.C. 1205: 71 Stat. 639, 73 Stat. 490, 74 Stat. 505) if a visa petition filed in behalf of such eligible orphan was (A) approved by the Attorney General prior to September 30, 1961, or (B) pending before the Attorney General prior to September 30, 1961, and the Attorney General approves such petition."

ADOPTED SONS OR ADOPTED DAUGHTERS, PREFERENCE STATUS

Section 5(c) of Pub. L. 86-363 provided that: "Aliens who have been granted a preference under paragraph (4) of section 203(a) of the Immigration and Nationality Act [subsec. (a)(4) of this section prior to 1959 amendment] pursuant to petitions heretofore approved by the Attorney General on the ground that they are the adopted sons or adopted daughters of United States citizens shall remain in that status notwithstanding the provisions of section 1 of this Act [amending subsec. (a)(2) of this section], unless they acquire a different immigrant status pursuant to a petition hereafter approved by the Attorney General."

REPEAL OF CERTAIN PROVISIONS AUTHORIZING ISSUANCE OF NONQUOTA IMMIGRANT VISAS

Section 12A of Pub. L. 85-316, as added by Pub. L. 85-700, § 2, Aug. 21, 1958, 72 Stat. 699, providing that aliens eligible for quota immigrant status on basis of a petition approved prior to July 1, 1958, shall be held to be nonquota immigrants and issued visas, was repealed by Pub. L. 87-301, § 24(a) (6), Sept. 26, 1961, 75 Stat. 657.

Section 12 of Pub. L. 85-316 providing that aliens eligible for quota immigrant status on basis of a petition approved prior to July 1, 1957, shall be held to be nonquota immigrants, and if otherwise admissible, be issued visas, was repealed by Pub. L. 87-301, § 24(a) (5), Sept. 26, 1961, 75 Stat. 657.

Section 6 of Pub. L. 86-363 authorizing issuance of nonquota immigrant visas to aliens eligible to enter for permanent residence if the alien was the beneficiary of a visa petition approved by the Attorney General, and such petition was filed by a person admitted under section 1971 et seq., of Title 50, Appendix, was repealed by Pub. L. 87-301, § 24(a) (7), Sept. 26, 1961, 75 Stat. 657.

Repeal of sections 12 and 12A of Pub. L. 85-316 and section 6 of Pub. L. 86-363 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301, set out as a note under former section 1255a of this title.

NONQUOTA IMMIGRANT STATUS OF SPOUSES AND CHILDREN OF CERTAIN ALIENS

Section 4 of Pub. L. 86-363 providing that an alien registered on a consular waiting list was eligible for quota immigrant status on basis of a petition approved prior to Jan. 1, 1959, along with the spouse and children of such alien, was repealed by Pub. L. 87-301, § 24(a) (7), Sept. 26, 1961, 75 Stat. 657.

Repeal of section 4 of Pub. L. 86-363 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301 set out as a note under former section 1255a of this title.

CROSS REFERENCES

Definition of the term—

- Alien, see section 1101 (a) (3) of this title.
- Application for admission, see section 1101 (a) (4) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- Child, see section 1101 (b) (c) of this title.
- Consular officer, see section 1101 (a), (9) of this title.
- Immigrant, see section 1101 (a) (15) of this title.
- Immigrant visa, see section 1101 (a) (16) of this title.
- Immigration officer, see section 1101 (a) (18) of this title.
- Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.
- Nonquota immigrant, see section 1101 (a) (27) of this title.
- Parent, see section 1101 (b) (2), (c) (2) of this title.
- Quota immigrant, see section 1101 (a) (32) of this title.
- Spouse, see section 1101 (a) (35) of this title.
- Exclusion of quota immigrant issued a visa without compliance with provisions of this section, see section 1182 (a) (21) of this title.

§ 1154. Procedure for granting immigration status under section 1101 (a) (27) (F) (i) or section 1153 (a) (1) (A).

(a) Authority.

In the case of any alien claiming in his application for an immigrant visa to be entitled to an immigrant status under section 1101 (a) (27) (F) (i) or 1153 (a) (1) (A) of this title, the consular officer shall not grant such status until he has been authorized to do so as provided in this section.

(b) Petition.

Any person, institution, firm, organization, or governmental agency desiring to have an alien classified as an immigrant under section 1101 (a) (27) (F) (i) or section 1153 (a) (1) (A) of this title shall file a petition with the Attorney General for such classification of the alien. The petition shall be in such form as the Attorney General may by regulations prescribe and shall state the basis for the need of the services of such alien and contain such additional information and be supported by such documentary evidence as may be required by the Attorney General. The petition shall be made under oath administered by any individual having authority to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer.

(c) Approval; reports to Congress.

After an investigation of the facts in each case, and after consultation with appropriate agencies of the Government, the Attorney General shall, if he determines that the facts stated in the petition are true and that the alien in respect of whom the petition is made is eligible for an immigrant status under section 1101 (a) (27) (F) (i) or 1153 (a) (1) (A) of this title, approve the petition and forward one copy thereof to the Department of State. The Secretary of State shall then authorize the consular officer concerned to grant such immigrant status. The Attorney General shall forward to the Congress a report on each approved petition for immigrant status under section 1153 (a) (1) of this title stating the basis for his approval and such facts as were by him deemed to be pertinent in establishing the beneficiary's qualifications for the preferential status and for the petitioner's urgent need for his services. Such reports shall be submitted to the Congress on the first and fifteenth day of each calendar month in which the Congress is in session.

(d) Restrictions.

Nothing in this section shall be construed to entitle an immigrant, in respect of whom a petition under this section is approved, to enter the United States as an immigrant under section 1101 (a) (27) (F) (i) or 1153 (a) (1) (A) of this title, if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification. (June 27, 1952, ch. 477, title II, ch. 1, § 204, 66 Stat. 179; Oct. 24, 1962, Pub. L. 87-885, § 3, 76 Stat. 1247.)

AMENDMENTS

1962—Subsec. (c). Pub. L. 87-885 provided for submission of reports to Congress.

ALIEN SHEPHERDERS

Act Sept. 3, 1954, ch. 1254, §§ 1-3, 68 Stat. 1145, provided for the importation of skilled alien shepherders upon approval by the Attorney General, certification to the Secretary of State by the Attorney General of names and addresses of shepherders whose applications for importation were approved, and issuance of not more than 385 special nonquota immigrant visas. Provisions of said act expired on Sept. 3, 1955, by terms of section 1 thereof.

CROSS REFERENCES

Definition of the term—

- Alien, see section 1101 (a) (3) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- Consular officer, see section 1101 (a) (9) of this title.

Immigrant, see section 1101 (a) (15) of this title.
Immigrant visa, see section 1101 (a) (16) of this title.

Organization, see section 1101 (a) (28) of this title.
Person, as used in this subchapter and subchapter I of this title, see section 1101 (b) (3) of this title.

§ 1155. Procedure for granting nonquota status or preference by reason of relationship.

(a) Authority.

In the case of any alien claiming in his application for an immigrant visa to be entitled to a nonquota immigrant status under section 1101 (a) (27) (A) of this title, or to a quota immigrant status under section 1153 (a) (2) or 1153 (a) (3) of this title, or to a preference under section 1153 (a) (4) of this title, the consular officer shall not grant such status or preference until he has been authorized to do so as provided in this section.

(b) Petition.

Any citizen of the United States claiming that any immigrant is his spouse or child and that such immigrant is entitled to a nonquota immigrant status under section 1101 (a) (27) (A) of this title, or any citizen of the United States claiming that any immigrant is his parent or unmarried son or unmarried daughter and that such immigrant is entitled to a quota immigrant status under section 1153 (a) (2) of this title, or any alien lawfully admitted for permanent residence claiming that any immigrant is his spouse or his unmarried son or his unmarried daughter and that such immigrant is entitled to a quota immigrant status under section 1153 (a) (3) of this title, or any citizen of the United States claiming that any immigrant is his brother or sister or his married son or his married daughter and that such immigrant is entitled to a preference under section 1153 (a) (4) of this title may file a petition with the Attorney General. No petition for quota immigrant status or a preference in behalf of a son or daughter under paragraph (2), (3), or (4) of section 1153 (a) of this title shall be approved by the Attorney General unless the petitioner establishes that he is a parent as defined in section 1101 (b) (2) of this title of the alien in respect to whom the petition is made, except that no such petition shall be approved if the beneficiary thereof is an alien defined in section 1101 (b) (1) (F) of this title. No petition for nonquota immigrant status in behalf of a child as defined in section 1101 (b) (1) (F) of this title shall be approved by the Attorney General unless the petitioner establishes to the satisfaction of the Attorney General that the petitioner and spouse will care for such child properly if he is admitted to the United States, and (i) in the case of a child adopted abroad, that the petitioner and spouse personally saw and observed the child prior to or during the adoption proceedings, and (ii) in the case of a child coming to the United States for adoption, that the petitioner and spouse have complied with the preadoption requirements, if any, of the State of such child's proposed residence. The petition shall be in such form and shall contain such information and be supported by such documentary evidence as the Attorney General may by regulations prescribe. The petition shall be made under oath administered by any individual having authority to administer oaths, if executed in the United States, but, if executed outside the United

States, administered by an immigration officer or a consular officer.

(c) Approval.

After an investigation of the facts in each case the Attorney General shall, if he determines the facts stated in the petition are true and that the alien in respect of whom the petition is made is eligible for a nonquota immigrant status under section 1101 (a) (27) (A) of this title, or for a quota immigrant status under section 1153 (a) (2) or 1153 (a) (3) of this title, or for a preference under section 1153 (a) (4) of this title, approve the petition and forward one copy thereof to the Department of State. Not more than two such petitions may be approved for one petitioner in behalf of a child as defined in section 1101 (b) (1) (E) or (F) of this title, unless necessary to prevent the separation of brothers and sisters. The Secretary of State shall then authorize the consular officer concerned to grant the nonquota immigrant status, quota immigrant status, or preference, as the case may be. Notwithstanding the provisions of this subsection, no petition shall be approved if the alien previously has been accorded, by reason of marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws—

(1) a nonquota status under section 1101 (a) (27) (A) of this title as the spouse of a citizen of the United States, or

(2) a preference quota status under section 1153 (a) (3) of this title as the spouse of an alien lawfully admitted for permanent residence.

(d) Restrictions.

Nothing in this section shall be construed to entitle an immigrant, in respect of whom a petition under this section is approved, to enter the United States as a nonquota immigrant under section 1101 (a) (27) (A) of this title if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification, or to enter the United States as a quota immigrant under section 1153 (a) (2) or 1153 (a) (3) of this title if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification, or to enter the United States as a preference quota immigrant under section 1153 (a) (4) of this title if upon his arrival at a port of entry in the United States he is found not to be entitled to such preference. (June 27, 1952, ch. 477, title II, ch. 1, § 205, 66 Stat. 180; Sept. 22, 1959, Pub. L. 86-363, § 5 (a), (b), 73 Stat. 644; Sept. 26, 1961, Pub. L. 87-301, §§ 3, 10, 75 Stat. 650, 654.)

AMENDMENTS

1961—Subsec. (b). Pub. L. 87-301, § 3(a), provided that no petition for quota immigration status or a preference shall be approved if the beneficiary is an alien defined in section 1101 (b) (1) (F) of this title, established requirements to be met by petitioners before a petition for nonquota immigrant status for a child as defined in section 1101 (b) (1) (F) can be approved by the Attorney General, and authorized the administration of oaths by immigration officers when the petition is executed outside the United States.

Subsec. (c). Pub. L. 87-301, §§ 3(b), 10, substituted "section 1101 (b) (1) (E) or (F)" for "section 1101 (b) (1) (E)", and provided that no petition shall be approved if the alien had previously been accorded a nonquota

status under section 1101(a)(27)(A) of this title, or a preference quota status under section 1153(a)(3) of this title, by reason of marriage entered into to evade the immigration laws.

1959—Subsec. (b). Pub. L. 86-363, § 5(a), authorized the filing of petitions by any United States citizen claiming that an immigrant is his unmarried son or unmarried daughter, by any alien lawfully admitted for permanent residence claiming that an immigrant is his unmarried son or unmarried daughter instead of child, or by any United States citizen claiming that an immigrant is his married son or married daughter instead of son or daughter, and prohibited approval of petition for quota immigrant status or preference of alien without proof of parent relationship of the petitioner to such alien.

Subsec. (c) Pub. L. 86-363, § 5(b), limited approval to two petitions for one petitioner in behalf of a child as defined in section 1101(b)(1)(E) of this title unless necessary to prevent separation of brothers and sisters.

CROSS REFERENCES

Definition of the term—

- Allen, see section 1101 (a) (3) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- Child, see section 1101 (b) (1), (c) (1) of this title.
- Consular officer, see section 1101 (a) (9) of this title.
- Entry, see section 1101 (a) (1) of this title.
- Immigrant, see section 1101 (a) (15) of this title.
- Immigrant visa, see section 1101 (a) (16) of this title.
- Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.
- Nonquota immigrant, see section 1101 (a) (27) of this title.
- Parent, see section 1101 (b) (2), (c) (2) of this title.
- Quota immigrant, see section 1101 (a) (32) of this title.
- Spouse, see section 1101 (a) (35) of this title.

§ 1156. Revocation of approval of petitions; notice.

The Attorney General may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under sections 1154, 1155, or 1184 (c) of this title. Such revocation shall be effective as of the date of approval of any such petition. In no case, however, shall such revocation have effect unless there is mailed to the petitioner's last known address a notice of the revocation and unless notice of the revocation is communicated through the Secretary of State to the beneficiary of the petition before such beneficiary commences his journey to the United States. If notice of revocation is not so given, and the beneficiary applies for admission to the United States, his admissibility shall be determined in the manner provided for by sections 1225 and 1226 of this title. (June 27, 1952, ch. 477, title II, ch. 1, § 206, 66 Stat. 181.)

CROSS REFERENCES

Definition of the term—

- Application for admission, see section 1101 (a) (4) of this title.
- Attorney General, see section 1101 (a) (5) of this title.

§ 1157. Unused quota immigrant visas.

If a quota immigrant having an immigrant visa is excluded from admission to the United States and deported, or does not apply for admission to the United States before the expiration of the validity of the immigrant visa, or if an alien having an immi-

grant visa issued to him as a quota immigrant is found not to be a quota immigrant, no immigrant visa shall be issued in lieu thereof to any other immigrant. (June 27, 1952, ch. 477, title II, ch. 1, § 207, 66 Stat. 181.)

CROSS REFERENCES

Definition of the term—

- Allen, see section 1101 (a) (3) of this title.
- Immigrant, see section 1101 (a) (15) of this title.
- Immigrant visa, see section 1101 (a) (16) of this title.
- Quota immigrant, see section 1101 (a) (32) of this title.

PART II.—ADMISSION QUALIFICATIONS FOR ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

§ 1181. Admission into the United States.

(a) Documentary requirements.

No immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such immigrant visa of the accompanying parent, (2) is properly chargeable to the quota specified in the immigrant visa, (3) is a nonquota immigrant if specified as such in the immigrant visa, (4) is of the proper status under the quota specified in the immigrant visa, and (5) is otherwise admissible under this chapter.

(b) Readmission after temporary departure.

Notwithstanding the provisions of section 1182 (a) (20) of this title, in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, otherwise admissible aliens lawfully admitted for permanent residence who depart from the United States temporarily may be readmitted to the United States by the Attorney General in his discretion without being required to obtain a passport, immigrant visa, reentry permit or other documentation.

(c) Admission of certain inadmissible immigrants.

The Attorney General may in his discretion, subject to subsection (d) of this section, admit to the United States any otherwise admissible immigrant not admissible under clauses (2), (3), or (4) of subsection (a) of this section, if satisfied that such inadmissibility was not known to and could not have been ascertained by the exercise of reasonable diligence by, such immigrant prior to the departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory, or, in the case of an immigrant coming from foreign contiguous territory, prior to the application of the immigrant for admission.

(d) Same; restrictions.

No quota immigrant within clause (2) or (3) of subsection (a) of this section shall be admitted under subsection (c) of this section if the entire number of immigrant visas which may be issued to quota immigrants under the same quota for the fiscal year, or the next fiscal year, has already been issued. If such entire number of immigrant visas has not been issued, the Secretary of State, upon notification by the Attorney General of the admission under subsection (c) of this section of a quota immigrant within clause (2) or (3) of subsection (a) of this

section, shall reduce by one the number of immigrant visas which may be issued to quota immigrants under the same quota during the fiscal year in which such immigrant is admitted, or, if the entire number of immigrant visas which may be issued to quota immigrants under the same quota for the fiscal year has been issued, then during the next following fiscal year.

(c) **Passport or travel documents.**

Every alien making application for admission as an immigrant shall present a valid unexpired passport, or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General. (June 27, 1952, ch. 477, title II, ch. 2, § 211, 66 Stat. 181.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.
 Application for admission, see section 1101 (a) (4) of this title.
 Attorney General, see section 1101 (a) (5) of this title.
 Immigrant, see section 1101 (a) (15) of this title.
 Immigrant visa, see section 1101 (a) (16) of this title.
 Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.
 National, see section 1101 (a) (21) of this title.
 Nonquota immigrant, see section 1101 (a) (27) of this title.
 Parent, see section 1101 (b) (2), (c) (2) of this title.
 Passport, see section 1101 (a) (30) of this title.
 Quota immigrant, see section 1101 (a) (32) of this title.
 United States, see section 1101 (a) (38) of this title.
 Quota to which immigrant is chargeable, determination of, see section 1152 of this title.
 Re-entry permit, see section 1203 of this title.

§ 1182. General classes of aliens ineligible to receive visas and excluded from admission; waivers of inadmissibility.

(a) Except as otherwise provided in this chapter, the following classes of aliens shall be ineligible to receive visas and shall be excluded from admission into the United States:

- (1) Aliens who are feeble-minded;
- (2) Aliens who are insane;
- (3) Aliens who have had one or more attacks of insanity;
- (4) Aliens afflicted with psychopathic personality, epilepsy, or a mental defect;
- (5) Aliens who are narcotic drug addicts or chronic alcoholics;
- (6) Aliens who are afflicted with any dangerous contagious disease;
- (7) Aliens not comprehended within any of the foregoing classes who are certified by the examining surgeon as having a physical defect, disease, or disability, when determined by the consular or immigration officer to be of such a nature that it may affect the ability of the alien to earn a living, unless the alien affirmatively establishes that he will not have to earn a living;
- (8) Aliens who are paupers, professional beggars, or vagrants;
- (9) Aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense), or aliens who admit having com-

mitted such a crime, or aliens who admit committing acts which constitute the essential elements of such a crime; except that aliens who have committed only one such crime while under the age of eighteen years may be granted a visa and admitted if the crime was committed more than five years prior to the date of the application for a visa or other documentation, and more than five years prior to date of application for admission, to the United States, unless the crime resulted in confinement in a prison or correctional institution, in which case such alien must have been released from such confinement more than five years prior to the date of the application for a visa or other documentation, and for admission, to the United States. Any alien who would be excludable because of the conviction of a misdemeanor classifiable as a petty offense under the provisions of section 1(3) of Title 18, by reason of the punishment actually imposed, or who would be excludable as one who admits the commission of an offense that is classifiable as a misdemeanor under the provisions of section 1(2) of Title 18, by reason of the punishment which might have been imposed upon him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided*, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense;

(10) Aliens who have been convicted of two or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were five years or more;

(11) Aliens who are polygamists or who practice polygamy or advocate the practice of polygamy;

(12) Aliens who are prostitutes or who have engaged in prostitution, or aliens coming to the United States solely, principally, or incidentally to engage in prostitution; aliens who directly or indirectly procure or attempt to procure, or who have procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution or for any other immoral purpose; and aliens who are or have been supported by, or receive or have received, in whole or in part, the proceeds of prostitution or aliens coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution;

(13) Aliens coming to the United States to engage in any immoral sexual act;

(14) Aliens seeking to enter the United States for the purpose of performing skilled or unskilled labor, if the Secretary of Labor has determined and certified to the Secretary of State and to the Attorney General that (A) sufficient workers in the United States who are able, willing, and qualified are available at the time (of application for a visa and for admission to the United States)

and place (to which the alien is destined) to perform such skilled or unskilled labor, or (B) the employment of such aliens will adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply only to the following classes: (i) those aliens described in the nonpreference category of section 1153 (a) (4) of this title, (ii) those aliens described in section 1101 (a) (27) (C), (27) (D), or (27) (E) of this title (other than the parents, spouses, or children of United States citizens or of aliens lawfully admitted to the United States for permanent residence, unless their services are determined by the Attorney General to be needed urgently in the United States because of the high education, technical training, specialized experience, or exceptional ability of such immigrants and to be substantially beneficial prospectively to the national economy, cultural interest or welfare of the United States;

(15) Aliens who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, are likely at any time to become public charges;

(16) Aliens who have been excluded from admission and deported and who again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their reapplying for admission;

(17) Aliens who have been arrested and deported, or who have fallen into distress and have been removed pursuant to this chapter or any prior act, or who have been removed as alien enemies, or who have been removed at Government expense in lieu of deportation pursuant to section 1252 (b) of this title, unless prior to their embarkation or reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their applying or reapplying for admission;

(18) Aliens who are stowaways;

(19) Any alien who seeks to procure, or has sought to procure, or has procured a visa or other documentation, or seeks to enter the United States, by fraud, or by willfully misrepresenting a material fact;

(20) Except as otherwise specifically provided in this chapter, any immigrant who at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this chapter, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General pursuant to section 1181 (e) of this title;

(21) Except as otherwise specifically provided in this chapter, any quota immigrant at the time of application for admission whose visa has been

issued without compliance with the provisions of section 1153 of this title;

(22) Aliens who are ineligible to citizenship, except aliens seeking to enter as nonimmigrants; or persons who have departed from or who have remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency, except aliens who were at the time of such departure nonimmigrant aliens and who seek to reenter the United States as nonimmigrants;

(23) Any alien who has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, or any salt derivative, or preparation of opium or coca leaves, or insonipeacaine or any addiction-forming or addiction-sustaining opiate; or any alien who the consular officer or immigration officer know or have reason to believe is or has been an illicit trafficker in any of the aforementioned drugs;

(24) Aliens (other than those aliens who are native-born citizens of countries enumerated in section 1101 (a) (27) (C) of this title and aliens described in section 1101 (a) (27) (B) of this title) who seek admission from foreign contiguous territory or adjacent islands, having arrived there on a vessel or aircraft of a nonsignatory line, or if signatory, a noncomplying transportation line under section 1228 (a) of this title and who have not resided for at least two years subsequent to such arrival in such territory or adjacent islands;

(25) Aliens (other than aliens who have been lawfully admitted for permanent residence and who are returning from a temporary visit abroad) over sixteen years of age, physically capable of reading, who cannot read and understand some language or dialect;

(26) Any nonimmigrant who is not in possession of (A) a passport valid for a minimum period of six months from the date of the expiration of the initial period of his admission or contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period; and (B) at the time of application for admission a valid nonimmigrant visa or border crossing identification card;

(27) Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger

the welfare, safety, or security of the United States;

(28) Aliens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of World communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 786 of Title 50, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific in-

dividuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character, or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (G) of this paragraph;

(I) Any alien who is within any of the classes described in subparagraphs (B)—(H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes, or (ii) (a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the

United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii) (a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the Congress in the case of each alien who is or shall be admitted into the United States under (ii) of this subparagraph;

(29) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 786 of Title 50;

(30) Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 1227 (e) of this title, whose protection or guardianship is required by the alien ordered excluded and deported;

(31) Any alien who at any time shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law.

(b) The provisions of paragraph (25) of subsection (a) of this section shall not be applicable to any alien who (1) is the parent, grandparent, spouse, daughter, or son of an admissible alien, or any alien lawfully admitted for permanent residence, or any citizen of the United States, if accompanying such admissible alien, or coming to join such citizen or alier lawfully admitted, and if otherwise admissible, or (2) proves that he is seeking admission to the United States to avoid religious persecution in the country of his last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against such alien or any group to which he belongs because of his religious faith. For the purpose of ascertaining whether an alien

can read under paragraph (25) of subsection (a) of this section, the consular officers and immigration officers shall be furnished with slips of uniform size, prepared under direction of the Attorney General each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type, in one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made and shall be required to read and understand the words printed on the slip in such language or dialect.

(c) Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of paragraphs (1)–(25), (30), and (31) of subsection (a) of this section. Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 1181 (b) of this title.

(d) (1) The provisions of paragraphs (11) and (25) of subsection (a) of this section shall not be applicable to any alien who in good faith is seeking to enter the United States as a nonimmigrant.

(2) The provisions of paragraph (28) of subsection (a) of this section shall not be applicable to any alien who is seeking to enter the United States temporarily as a nonimmigrant under paragraph (15) (A) (iii) or (G) (v) of section 1101 (a) of this title.

(3) Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27) and (29)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) of this section (other than paragraphs (27) and (29)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General.

(4) Either or both of the requirements of paragraph (26) of subsection (a) of this section may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 1228 (d) of this title.

(5) The Attorney General may in his discretion parole into the United States temporarily under

such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(6) The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this subsection. The Attorney General shall make a detailed report to the Congress in any case in which he exercises his authority under paragraph (3) of this subsection on behalf of any alien excludable under paragraphs (9), (10), and (20) of subsection (a) of this section.

(7) The provisions of subsection (a) of this section, except paragraphs (20), (21), and (26) of said subsection, shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. The Attorney General shall by regulations provide a method and procedure for the temporary admission to the United States of the aliens described in this proviso. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 1227(a) of this title.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (26), (27), and (29) of subsection (a) of this section.

(c) No person admitted under section 1101(a) (15) (J) of this title or acquiring such status after admission shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 1101(a) (15) (H) of this title until it is established that such person has resided and been physically present in the country of his nationality or his last residence, or in another foreign country for an aggregate of at least two years following departure from the United States: *Provided*, That such residence in another foreign country shall be considered to have satisfied the requirements of this subsection if the Secretary of State determines that it has served the purpose and the intent of the Mutual Educational and Cultural Exchange Act of 1961: *Provided further*, That upon the favorable recommendation of the Secretary of State, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen

of the United States or a lawfully resident alien), the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest: *And provided further*, That the provisions of this subsection shall apply also to those persons who acquired exchange visitor status under the United States Information and Educational Exchange Act of 1948, as amended.

(f) Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrant or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.

(g) Any alien afflicted with tuberculosis in any form who (A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or (B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence in accordance with such terms, conditions, and controls, if any, including the giving of a bond, as the Attorney General, in his discretion after consultation with the Surgeon General of the United States Public Health Service, may by regulations prescribe.

(h) Any alien, who is excludable from the United States under paragraphs (9), (10), or (12) of subsection (a) of this section, who (A) is the spouse or child, including a minor unmarried adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or (B) has a son or daughter who is a United States citizen or an alien lawfully admitted for permanent residence, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence (1) if it shall be established to the satisfaction of the Attorney General that (A) the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or son or daughter of such alien, and (B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States; and (2) if the Attorney General, in his discretion, and pursuant to such terms, conditions, and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa and for admission to the United States.

(i) Any alien who is the spouse, parent, or child of a United States citizen or of an alien lawfully admitted for permanent residence and who is excludable because (1) he seeks, has sought to procure, or has procured, a visa or other documentation, or entry into the United States, by fraud or misrepresentation, or (2) he admits the commission of perjury in

connection therewith, may be granted a visa and admitted to the United States for permanent residence, if otherwise admissible, if the Attorney General in his discretion has consented to the alien's applying or reapplying for a visa and for admission to the United States. (June 27, 1952, ch. 477, title II, ch. 2, § 212, 66 Stat. 182; July 18, 1956, ch. 629, title III, § 301(a), 70 Stat. 575; July 7, 1958, Pub. L. 85-508, § 23, 72 Stat. 351; Mar. 18, 1959, Pub. L. 86-3, § 20(b), 73 Stat. 13; July 14, 1960, Pub. L. 86-648, § 8, 74 Stat. 505; Sept. 21, 1961, Pub. L. 87-256, § 109(c), 75 Stat. 535; Sept. 26, 1961, Pub. L. 87-301, §§ 11-15, 75 Stat. 654, 655.)

REFERENCES IN TEXT

The Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (e), is classified to chapter 33 of Title 22, Foreign Relations and Intercourse.

The United States Information and Educational Exchange Act of 1948, as amended, referred to in subsec. (e), is classified to chapter 18 of Title 22.

AMENDMENTS

1961—Subsec. (a) (6). Pub. L. 87-301, § 11, eliminated references to tuberculosis and leprosy.

Subsec. (a) (9). Pub. L. 87-301, § 13, authorized admission of aliens who would be excluded because of conviction of a violation classifiable as an offense under section 1(3) of Title 18, by reason of punishment actually imposed, or who admit commission of an offense classifiable as a misdemeanor under section 1(2) of Title 18, by reason of punishment which might have been imposed, if otherwise admissible and provided the alien has committed, or admits to commission of, only one such offense.

Subsec. (e). Pub. L. 87-256 added subsec. (e) Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 87-256 redesignated former subsec. (e) as (f).

Subsecs. (g)–(i). Pub. L. 87-301, §§ 12, 14, 15 added subsecs. (f)–(h), which for purposes of codification have been designated as (g)–(i).

1960—Subsec. (a). Pub. L. 86-648 inserted "or marihuana" following "narcotic drugs" in cl. (23).

1959—Subsec. (d). Pub. L. 86-3 eliminated provisions from cl. (7) which related to aliens who left Hawaii and to persons who were admitted to Hawaii under section 8(a) (1) of the act of March 24, 1934, or as nationals of the United States.

1958—Subsec. (d) (7). Pub. L. 85-508 eliminated provisions which related to aliens who left Alaska.

1956—Subsec. (a) (23). July 18, 1956, included conspiracy to violate a narcotic law, and the illicit possession of narcotics, as additional grounds for exclusion.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 18, 1956, effective July 19, 1956, see section 401 of act July 18, 1956, set out as a note under section 1401 of Title 18, Crimes and Criminal Procedure.

RESETTLEMENT OF REFUGEE-ESCAPEE; REPORTS; FORMULA; TERMINATION DATE; PERSONS DIFFICULT TO RESETTLE; CREATION OF RECORD OF ADMISSION FOR PERMANENT RESIDENCE

Pub. L. 86-648, §§ 1-4, 11, July 14, 1960, 74 Stat. 504, as amended by Pub. L. 87-510, § 6, June 28, 1962, 76 Stat. 124, provided:

"That under the terms of section 212(d) (5) of the Immigration and Nationality Act [subsec. (d) (5) of this section] the Attorney General may parole into the United States, pursuant to such regulations as he may prescribe, an alien refugee-escapee defined in section 15(c) (1) of the Act of September 11, 1957 (71 Stat. 643) [set out as a note under section 1971a of Title 50, Appendix] if such alien (1) applies for parole while physically present within the limits of any country which is not Communist, Communist-dominated, or Communist-occupied, (2) is not a national of the area in which the application is made, and (3) is within the mandate of the United Nations High Commissioner for Refugees.

"Sec. 2. (a) The Secretary of State is hereby directed to submit to the Attorney General, as soon as practicable following the date of the enactment of this Act [July 14, 1960], an advisory report indicating the number of refugee-escapees, as specified in section 1 of this Act, who within the period beginning July 1, 1959, and ending June 30, 1960, have availed themselves of resettlement opportunities offered by nations other than the United States; and, thereafter, prior to January 1, and July 1 of each year to submit such an advisory report to the Attorney General indicating the number of such refugee-escapees who within the preceding six months period have availed themselves of such resettlement opportunities. The Attorney General shall not parole into the United States pursuant to section 1 of this Act, in any six months period immediately following the submission of the Secretary of State's advisory report, a number of refugee-escapees exceeding twenty-five per centum of the number of such refugee-escapees indicated in such advisory report as having been resettled outside of the United States. The Attorney General shall submit to the Congress a report containing complete and detailed statement of facts in the case of each alien paroled into the United States pursuant to section 1 of this Act. Such reports shall be submitted on or before January 15 and June 15 of each year. If within ninety days immediately following the submission of such report, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the continuation of the authority vested in the Attorney General under section 1 of this Act, the Attorney General shall, not later than at the expiration of sixty days immediately following the adoption of such resolution by either the Senate or the House of Representatives, discontinue the paroling into the United States of such refugee-escapees.

"(b) The Attorney General may, within the numerical limitation prescribed by subsection (a) of this section, parole into the United States pursuant to section 1 of this Act not to exceed five hundred refugee-escapees listed by the United Nations High Commissioner for Refugees as 'difficult to resettle'; *Provided*, That no refugee-escapee may be paroled into the United States pursuant to this subsection if he suffers from conditions requiring institutionalization: *Provided further*, That in the case of each such refugee-escapee, the Attorney General receives and approves a finding by a voluntary relief or welfare organization recognized for this purpose by the Attorney General, that such refugee-escapee can, with some assistance, become self-supporting, or is a member of a family unit capable of becoming self-supporting.

"Sec. 3. Any alien who was paroled into the United States as a refugee-escapee, pursuant to section 1 of the Act, whose parole has not theretofore been terminated by the Attorney General pursuant to such regulations as he may prescribe under the authority of section 212(d) (5) of the Immigration and Nationality Act [subsec. (d) (5) of this section]; and who has been in the United States for at least two years, and who has not acquired permanent residence, shall forthwith return or be returned to the custody of the Immigration and Naturalization Service and shall thereupon be inspected and examined for admission into the United States, and his case dealt with in accordance with the provisions of sections 235, 236, and 237 of the Immigration and Nationality Act [sections 1225, 1226 and 1227 of this title].

"Sec. 4. Any alien who, pursuant to section 3 of this Act, is found, upon inspection by the immigration officer or after hearing before a special inquiry officer, to be admissible as an immigrant under the Immigration and Nationality Act [this chapter] at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a) (20) of the said Act [subsec. (a) (20) of this section], shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

"Sec. 11. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act [this chapter] or any

other law relating to immigration, nationality, or naturalization."

CREATION OF RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN HUNGARIAN REFUGEES

Pub. L. 85-559, July 25, 1958, 72 Stat. 419, provided:

"That any alien who was paroled into the United States as a refugee from the Hungarian revolution under section 212 (d) (5) of the Immigration and Nationality Act [subsection (d) (5) of this section] subsequent to October 23, 1956, who has been in the United States for at least two years, and who has not acquired permanent residence, shall forthwith return or be returned to the custody of the Immigration and Naturalization Service, and shall thereupon be inspected and examined for admission into the United States, and his case dealt with, in accordance with the provisions of sections 235, 236 and 237 of that Act [sections 1225, 1226 and 1227 of this title].

"Sec. 2. Any such alien who, pursuant to section 1 of this Act, is found, upon inspection by an immigration officer or after hearing before a special inquiry officer, to have been and to be admissible as an immigrant at the time of his arrival in the United States and at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212 (a) (20) of the Immigration and Nationality Act [subsection (a) (20) of this section], shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

"Sec. 3. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act [this chapter] or any other law relating to immigration, nationality, or naturalization."

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the United on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 733 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 733 Stat. 4, set out as a note preceding section 491 of Title 48.

CROSS REFERENCES

Alien enemies, see chapter 3, of Title 50, War and National Defense.

Alien women, prevention of transportation in foreign commerce under international agreement, see section 3421 of Title 5, Executive Departments and Government Officers and Employees.

Atomic weapons information, waiver of admission requirements, see section 47c of Title 50, War and National Defense.

Bonds—

Bond from nonimmigrant alien as prerequisite to admission to the United States, see section 1184 (a) of this title.

Bond or cash deposit as prerequisite to admission of aliens likely to become public charge or with certain physical disabilities, see section 1183 of this title.

Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or likely to become public charges, see section 1201 (g) of this title.

Forms to be prescribed by Attorney General, see section 1103 (a) of this title.

Definition of the term—

Adjacent islands, see section 1101 (b) (5) of this title.

Advocating a doctrine, see section 1101 (e) (1) of this title.

Advocating the doctrines of world communism, see section 1101 (e) (3) of this title.

Affiliation, see section 1101 (e) (2) of this title.

Alien, see section 1101 (a) (3) of this title.

Application for admission, see section 1101 (a) (4) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Border crossing identification card, see section 1101 (a) (6) of this title.

Child, see section 1101 (b) (1), (c) (1) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Doctrine, see section 1101 (a) (12) of this title.

Entry, see section 1101 (a) (13) of this title.

Foreign state, see section 1101 (a) (14) of this title.

Immigrant, see section 1101 (a) (15) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

Ineligible to citizenship, see section 1101 (a) (19) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

National, see section 1101 (a) (21) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A-I) of this title.

Nonimmigrant visa, see section 1101 (a) (26) of this title.

Nonquota immigrant, see section 1101 (a) (27) of this title.

Organization, see section 1101 (a) (28) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Passport, see section 1101 (a) (30) of this title.

Permanent, see section 1101 (a) (31) of this title.

Person of good moral character, see section 1101 (f) of this title.

Quota immigrant, see section 1101 (a) (32) of this title.

Residence, see section 1101 (a) (33) of this title.

Spouse, see section 1101 (a) (35) of this title.

Totalitarian party and totalitarian dictatorship, see section 1101 (a) (37) of this title.

United States, see section 1101 (a) (38) of this title.

World communism, see section 1101 (a) (40) of this title.

Deportation for offenses committed after entry into United States, see section 1251 of this title.

Detention of aliens for observation and examination, see section 1222 of this title.

Diplomatic and semidiplomatic immunities, see section 1102 of this title.

Espionage and censorship, see chapter 37 of Title 18, Crimes and Criminal Procedure.

Internal security, see chapter 23 of Title 50, War and National Defense.

Offenses classified, see section 1 of Title 18, Crimes and Criminal Procedure.

Passports and visas, see chapter 75 of Title 18, Crimes and Criminal Procedure.

Principals, see section 2 of Title 18, Crimes and Criminal Procedure.

Readmission without documentation after temporary departure, see section 1181 of this title.

Reentry permit, see section 1203 of this title.

Sabotage, see chapter 105 of Title 18, Crimes and Criminal Procedure.

Stowing away on vessels or aircraft, see section 2109 of Title 18, Crimes and Criminal Procedure.

Submission of alien seeking—

Immigrant visa to physical and mental examination required, see section 1201 (d) of this title.

Nonimmigrant visa to physical or mental examination, or both, required when necessary to ascertain eligibility for visa, see section 1201 (d) of this title.

Treason, sedition and subversive activities, see chapter 115 of Title 18, Crimes and Criminal Procedure.

White slave traffic, see chapter 117 of Title 18, Crimes and Criminal Procedure.

§§ 1182a—1182c. Repealed. Pub. L. 87-301, § 24(a) (1), (3), Sept. 26, 1961, 75 Stat. 657.

Section 1182a, act Sept. 3, 1954, ch. 1254, § 4, 68 Stat. 1145, related to the admission of aliens who were either convicted, or who admitted the commission, of a mis-

demeanor, and is now covered by subsec. (a) (9) of section 1182 of this title.

Section 1182b, Pub. L. 85-310, § 5, Sept. 11, 1957, 71 Stat. 640, permitted the admission of an alien spouse, child or parent excludable for crime involving moral turpitude in cases of hardship, when not contrary to national welfare or security, and with the Attorney General's consent, and under conditions and procedures prescribed by him, and is now covered by subsec. (g) of section 1182 of this title.

Section 1182c, Pub. L. 85-310, § 6, Sept. 11, 1957, 71 Stat. 640; Pub. L. 80-253, § 1, Sept. 9, 1959, 73 Stat. 490, authorized the admission of an alien spouse, child, or parent of a United States citizen afflicted with tuberculosis under terms, conditions and controls prescribed by the Attorney General, and is now covered by subsec. (f) of section 1182 of this title.

§ 1183. Admission of aliens on giving bond or cash deposit; return upon permanent departure.

Any alien excludable because he is likely to become a public charge or because of physical disability other than tuberculosis in any form, leprosy, or a dangerous contagious disease may, if otherwise admissible, be admitted in the discretion of the Attorney General upon the giving of a suitable and proper bond or undertaking approved by the Attorney General, in such amount and containing such conditions as he may prescribe, to the United States and to all States, Territories, counties, towns, municipalities, and districts thereof holding the United States and all States, Territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. In lieu of such bond such alien may deposit in cash with the Attorney General such amount as the Attorney General may require, which amount shall be deposited by him in the United States Postal Savings System, a receipt therefor to be given the person furnishing such sums showing the fact and object of its receipt and such other information as the Attorney General may deem advisable. All accruing interest on such deposit during the time it shall be held in the United States Postal Savings System shall be paid to the person furnishing such sum. In the event such alien becomes a public charge, the Attorney General shall dispose of such deposit in the same manner as if it had been collected under a bond as provided in this section. In the event of the permanent departure from the United States, the naturalization, or the death of such alien, such sum shall be returned to the person by whom furnished, or to his legal representatives. The admission of such alien shall be a consideration for the giving of such bond, undertaking, or cash deposit. Suit may be brought thereon in the name and by the proper law officers of the United States for the use of the United States, or of any State, Territory, district, county, town, or municipality in which such alien becomes a public charge. (June 27, 1952, ch. 477, title II, ch. 2, § 213, 66 Stat. 188.)

CROSS REFERENCES

Appeal from decision excluding alien because of existence of physical and mental defects, invocation of provisions of this section, see section 1227 of this title.

Bonds—

Bond from nonimmigrant alien as prerequisite to admission to the United States, see section 1184 (a) of this title.

Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or

likely to become public charges, see section 1201 (g) of this title.

Extraction from excludable aliens applying for temporary admission, see section 1182 (d) (6) of this title.

Forms to be prescribed by Attorney General, see section 1103 (a) of this title.

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Nationality and naturalization, see subchapter III of this chapter.

§ 1184. Admission of nonimmigrants.

(a) Regulations.

The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 1258 of this title, such alien will depart from the United States.

(b) Presumption of status; written waiver.

Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 1101 (a) (15) of this title. An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act, or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 1257 (b) of this title.

(c) Petition of importing employer.

The question of importing any alien as a nonimmigrant under section 1101 (a) (15) (H) of this title in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petition, shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant. (June 27, 1952, ch. 477, title II, ch. 2, § 214, 66 Stat. 189.)

REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in subsec. (b), is classified to sections 288—288f of Title 22, Foreign Relations and Intercourse.

CANCELLATION OF CERTAIN NONIMMIGRANT DEPARTURE BONDS

Pub. L. 85-521, July 18, 1958, 72 Stat. 375, authorized the Attorney General, upon application made not later than July 18, 1963, to cancel any departure bond posted

pursuant to the Immigration Act of 1924, as amended, or the Immigration and Nationality Act [this chapter], on behalf of any refugee who entered the United States as a nonimmigrant after May 6, 1945, and prior to July 1, 1953, and who had his immigration status adjusted to that of an alien admitted for permanent residence pursuant to any public or private law.

ALIEN SHEEPHERDERS; TERMINATION OF QUOTA DEDUCTIONS

Act Apr. 9, 1952, ch. 171, §§ 1—3, 66 Stat. 50, provided for the importation of skilled alien sheepherders upon approval by the Attorney General, certification to the Secretary of State by the Attorney General of names and addresses of sheepherders whose applications for importation were approved, issuance of not more than 500 special quota immigration visas and deduction of such special visas (to a maximum of 50 per centum for any fiscal year) from appropriate quotas for succeeding years as such quotas become available. Importation provisions of said act expired on Apr. 9, 1953, by terms of section 1 thereof.

Act June 30, 1950, ch. 423, §§ 1—3, 64 Stat. 306, provided for the importation of skilled alien sheepherders upon approval by the Attorney General, certification to the Secretary of State by the Attorney General of names and addresses of sheepherders whose applications for importation were approved, issuance of not more than 250 special quota immigration visas and deduction of such special visas (to a maximum of 50 per centum for any fiscal year) from appropriate quotas for succeeding years as such quotas become available. Importation provisions of said act expired on June 30, 1951, by terms of section 1 thereof.

Quota deductions under acts Apr. 9, 1952 and June 30, 1950, terminated effective July 1, 1957, by virtue of section 10 of Pub. L. 85-316, Sept. 11, 1957, 71 Stat. 642, set out as a note under section 1151 of this title.

CROSS REFERENCES

Bonds—

Bond or cash deposit as prerequisite to admission of aliens likely to become public charges or with certain disabilities, see section 1183 of this title.

Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or likely to become public charges, see section 1201 (g) of this title.

Exaction from excludable aliens applying for temporary admission, see section 1182 (d) (6) of this title.

Forms to be prescribed by Attorney General, see section 1103 (a) of this title.

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Immigrant, see section 1101 (a) (15) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

United States, see section 1101 (a) (38) of this title.

Presumption that immigrant is a quota immigrant, see section 1153 (e) of this title.

§ 1184a. Philippine Traders as nonimmigrants.

Upon a basis of reciprocity secured by agreement entered into by the President of the United States and the President of the Philippines, a national of the Philippines, and the spouse and children of any such national if accompanying or following to join him, may, if otherwise eligible for a visa and if otherwise admissible into the United States under this chapter, be considered to be classifiable as a nonimmigrant under section 1101 (a) (15) (E) of this title if entering solely for the purposes specified in clause (i) or (ii) of said section 1101 (a) (15) (E). (June 18, 1954, ch. 323, 68 Stat. 264.)

CODIFICATION

Section was not enacted as a part of the Immigration and Nationality Act which comprises this chapter.

§ 1185. Travel control of citizens and aliens during war or national emergency.

(a) Restrictions and prohibitions on aliens.

When the United States is at war or during the existence of any national emergency proclaimed by the President, or, as to aliens, whenever there exists a state of war between or among two or more states, and the President shall find that the interests of the United States require that restrictions and prohibitions in addition to those provided otherwise than by this section be imposed upon the departure of persons from and their entry into the United States, and shall make public proclamation thereof, it shall, until otherwise ordered by the President or the Congress, be unlawful—

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

(b) Citizens.

After such proclamation as is provided for in subsection (a) of this section has been made and published and while such proclamation is in force, it shall, except as otherwise provided by the President, and subject to such limitations and exceptions as the President may authorize and prescribe, be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.

(c) Penalties.

Any person who shall willfully violate any of the provisions of this section, or of any order or proclamation of the President promulgated, or of any permit, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than \$5,000, or, if a natural person, imprisoned for not more than five years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by like fine or imprisonment, or both; and any vehicle, vessel, or aircraft together with its appurtenances, equipment, tackle, apparel, and furniture, concerned in any such violation, shall be forfeited to the United States.

(d) Definitions.

The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term "person" as used in this section shall be deemed to mean any individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

(e) Nonadmission of certain aliens.

Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if, upon arrival in the United States, he is found to be inadmissible under any of the provisions of this chapter, or any other law, relative to the entry of aliens into the United States.

(f) Revocation of proclamation as affecting penalties.

The revocation of any proclamation, rule, regulation, or order issued in pursuance of this section shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such proclamation, rule, regulation, or order.

(g) Permits to enter.

Passports, visas, reentry permits, and other documents required for entry under this chapter may be considered as permits to enter for the purposes of this section. (June 27, 1952, ch. 477, title II, ch. 2, § 215, 66 Stat. 190.)

CROSS REFERENCES

Counterfeiting and forgery, see chapter 25 of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Entry, see section 1101 (a) (13) of this title.

Passport, see section 1101 (a) (30) of this title.

Person, see section 1101 (b) (3) of this title.

State, see section 1101 (a) (36) of this title.

United States, see section 1101 (a) (38) of this title.

False personation, see chapter 43 of Title 18, Crimes and Criminal Procedure.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Fines, penalties and forfeitures, see chapter 163 of Title 28, Judiciary and Judicial Procedure.

Fraud and false statements, see chapter 47 of Title 18, Crimes and Criminal Procedure.

Passports and visas, see chapter 75 of Title 18, Crimes and Criminal Procedure.

Repeal of statutes as affecting existing liabilities, see section 109 of Title 1, General Provisions.

PART III.—ISSUANCE OF ENTRY DOCUMENTS**§ 1201. Issuance of visas.****(a) Immigrants; nonimmigrants.**

Under the conditions hereinafter prescribed and subject to the limitations prescribed in this chapter or regulations issued thereunder, a consular officer may issue (1) to an immigrant who has made proper application therefor, an immigrant visa which shall consist of one copy of the application provided for in section 1202 of this title, visaed by such consular officer, and shall specify the quota, if any, to which the immigrant is charged, the immigrant's particular status under such quota, the particular nonquota category in which the immigrant is classified, if a nonquota immigrant, the date on which the validity of the visa shall expire, and such additional information as may be required; and (2) to a nonimmigrant who has made proper application therefor, a nonimmigrant visa, which shall specify the classification under section 1101 (a) (15) of this title of the nonimmigrant, the period during which the nonimmigrant visa shall be valid, and such additional information as may be required.

(b) Registration and fingerprinting; photographs; waiver of requirement.

Each alien who applies for a visa shall be registered and fingerprinted in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in section 1101 (a) (15) (A) and (G) of this title, or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.

(c) Period of validity; requirement of visa.

An immigrant visa shall be valid for such period, not exceeding four months, as shall be by regulations prescribed, except that any visa issued to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business. A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa in the case of nationals of any foreign country who are eligible for such visas, the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class. An immigrant visa may be replaced under the original quota number during the quota year in which the original visa was issued for a quota immigrant who establishes to the satisfaction of the consular officer that he was unable to use the original immigrant visa during the period of its validity because of reasons beyond his control and for which he was not responsible: *Provided*, the consular officer is in

possession of the duplicate signed copy of the original visa, the immigrant is found by the consular officer to be eligible for an immigrant visa and the immigrant pays again the statutory fee for an application and an immigrant visa.

(d) Physical examination.

Prior to the issuance of an immigrant visa to any alien, the consular officer shall require such alien to submit to a physical and mental examination in accordance with such regulations as may be prescribed. Prior to the issuance of a nonimmigrant visa to any alien, the consular officer may require such alien to submit to a physical or mental examination, or both, if in his opinion such examination is necessary to ascertain whether such alien is eligible to receive a visa.

(e) Surrender of visa.

Each immigrant shall surrender his immigrant visa to the immigration officer at the port of entry, who shall endorse on the visa the date and the port of arrival, the identity of the vessel or other means of transportation by which the immigrant arrived, and such other endorsements as may be by regulations required.

(f) Surrender of documents.

Each nonimmigrant shall present or surrender to the immigration officer at the port of entry such documents as may be by regulation required. In the case of an alien crewman not in possession of any individual documents other than a passport and until such time as it becomes practicable to issue individual documents, such alien crewman may be admitted, subject to the provisions of this part, if his name appears in the crew list of the vessel or aircraft on which he arrives and the crew list is visaed by a consular officer, but the consular officer shall have the right to exclude any alien crewman from the crew list visa.

(g) Non-issuance of visas or other documents.

No visa or other documentation shall be issued to an alien if (1) it appears to the consular officer, from statements in the application, or in the papers submitted therewith, that such alien is ineligible to receive a visa or such other documentation under section 1182 of this title, or any other provision of law, (2) the application fails to comply with the provisions of this chapter, or the regulations issued thereunder, or (3) the consular officer knows or has reason to believe that such alien is ineligible to receive a visa or such other documentation under section 1182 of this title, or any other provision of law: *Provided*, That a visa or other documentation may be issued to an alien who is within the purview of subsection (a) (7) or (15) of section 1182 of this title, if such alien is otherwise entitled to receive a visa or other documentation, upon receipt of notice by the consular officer from the Attorney General of the giving of a bond or undertaking providing indemnity as in the case of aliens admitted under section 1183 of this title.

(h) Nonadmission upon arrival.

Nothing in this chapter shall be construed to entitle any alien, to whom a visa or other documenta-

tion has been issued, to enter the United States, if, upon arrival at a port of entry in the United States, he is found to be inadmissible under this chapter, or any other provision of law. The substance of this subsection shall appear upon every visa application.

(i) Revocation of visas or documents.

After the issuance of a visa or other documentation to any alien, the consular officer or the Secretary of State may at any time, in his discretion, revoke such visa or other documentation. Notice of such revocation shall be communicated to the Attorney General, and such revocation shall invalidate the visa or other documentation from the date of issuance: *Provided*, That carriers or transportation companies, and masters, commanding officers, agents, owners, charterers, or consignees, shall not be penalized under section 1323 (b) of this title for action taken in reliance on such visas or other documentation, unless they received due notice of such revocation prior to the alien's embarkation. (June 27, 1952, ch. 477, title II, ch. 3, § 221, 66 Stat. 191; Sept. 26, 1961, Pub. L. 87-301, § 4, 75 Stat. 651.)

AMENDMENTS

1961—Subsec. (c). Pub. L. 87-301 provided that an immigrant visa issued to a child adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces or employed abroad by our Government, or temporarily abroad on business, shall remain valid to such time, but not exceeding three years, as the adoptive parent returns to the United States in due course of service, employment or business.

CROSS REFERENCES

Bonds—

Bond from nonimmigrant alien as prerequisite to admission to the United States, see section 1104 (a) of this title.

Bond or cash deposit as prerequisite to admission of aliens likely to become public charges or with certain physical disabilities, see section 1183 of this title.

Exaction from excludable aliens applying for temporary admission, see section 1182 (d) (6) of this title.

Forms to be prescribed by Attorney General, see section 1103 (a) of this title.

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Crewman, see section 1101 (a) (10) of this title.

Diplomatic visa, see section 1101 (a) (11) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigrant, see section 1101 (a) (15) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

National, see section 1101 (a) (21) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

Nonimmigrant visa, see section 1101 (a) (26) of this title.

Non quota immigrant, see section 1101 (a) (27) of this title.

Passport, see section 1101 (a) (30) of this title.

Quota immigrant, see section 1101 (a) (32) of this title.

United States, see section 1101 (a) (38) of this title.

Passports, see section 211a et seq. of Title 22, Foreign Relations and Intercourse.

Schedule of fees, see section 1351 of this title.

§ 1201a. Waiver of fingerprinting requirements for nonimmigrant aliens.

The Secretary of State and the Attorney General are authorized, in their discretion and on a basis of reciprocity, pursuant to such regulations as they may severally prescribe, to waive the requirement of fingerprinting specified in sections 1201 (b) and 1302 of this title, respectively, in the case of any nonimmigrant alien. (Pub. L. 85-316, § 8, Sept. 11, 1957, 71 Stat. 641.)

CODIFICATION

Section was not enacted as a part of the Immigration and Nationality Act which comprises this chapter.

DEFINITIONS; APPLICABILITY OF SECTION 1101 (a) AND (b) OF THIS TITLE

Section 14 of Pub. L. 85-316 provided that: "Except as otherwise specifically provided in this Act [enacting sections 1182b, 1182c, 1201a, 1205, 1251a, 1255a, 1255b, and 1401b of this title, amending sections 1101 (b) (1), 1153 (a) (1), and 1434 (c) of this title, and enacting notes under sections 1151, 1153, and 1205 of this title, and section 1971a of Appendix to Title 50], the definitions contained in subsections (a) and (b) of section 101 of the Immigration and Nationality Act [section 1101 (a) and (b) of this title] shall apply to sections 4, 5, 6, 7, 8, 9, 12, 13, and 15 of this Act [former sections 1182b, 1182c, 1205, 1251a, 1255a, and sections 1201a and 1255b of this title, and notes under section 1153 of this title and section 1971a of Appendix to Title 50]."

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

§ 1202. Application for visas.

(a) Immigrant visas.

Every alien applying for an immigrant visa and for alien registration shall make application therefor in such form and manner and at such place as shall be by regulations prescribed. In the application the immigrant shall state his full and true name, and any other name which he has used or by which he has been known; age and sex; the date and place of his birth; present address and places of previous residence; whether married or single, and the names and places of residence of spouse and children, if any; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); languages he can speak, read, or write; names and addresses of parents, and if neither parent living then the name and address of his next of kin in the country from which he comes; port of entry into the United States; final destination, if any, beyond the port of entry; whether he has a ticket through to such final destination; whether going to join a relative or friend, and, if so, the name and complete address of such relative or friend; the purpose for which he is going to the United States; the length of time he intends to remain in the United States; whether or not he¹ intends to remain in the United States permanently; whether he was ever arrested, convicted or was ever in prison or almshouse; whether he has ever been the beneficiary of a pardon or an am-

nesty; whether he has ever been treated in an institution or hospital or other place for insanity or other mental disease; if he claims to be a preference quota or a nonquota immigrant, the facts on which he bases such claim; whether or not he is a member of any class of individuals excluded from admission into the United States, or whether he claims to be exempt from exclusion under the immigration laws; and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

(b) Same; other documentary evidence.

Every alien applying for an immigrant visa shall present a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Secretary of State. The immigrant shall furnish to the consular officer with his application two copies of a certification by the appropriate police authorities stating what their records show concerning the immigrant; two certified copies of any existing prison record, military record, and record of his birth; and two certified copies of all other records or documents concerning him or his case which may be required by the consular officer. One copy of each document so furnished shall be permanently attached to each copy of the application and become a part thereof. In the event that the immigrant establishes to the satisfaction of the consular officer that any document or record required by this subsection is unobtainable, the consular officer may permit the immigrant to submit in lieu of such document or record other satisfactory evidence of the fact to which such document or record would, if obtainable, pertain.

(c) Nonimmigrant visas; immigrant registration; form, manner and contents of application.

Every alien applying for a nonimmigrant visa and for alien registration shall make application therefor in such form and manner as shall be by regulations prescribed. In the application the alien shall state his full and true name, the date and place of birth, his nationality, the purpose and length of his intended stay in the United States; personal description (including height, complexion, color of hair and eyes, and marks of identification); his marital status; and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

(d) Same; other documentary evidence.

Every alien applying for a nonimmigrant visa and alien registration shall furnish to the consular officer, with his application, a certified copy of such documents pertaining to him as may be by regulations required.

(e) Signing and verification of application.

Except as may be otherwise prescribed by regulations, each copy of an application required by this section shall be signed by the applicant in the presence of the consular officer, and verified by the

¹ So in original. Probably should read "he".

oath of the applicant administered by the consular officer. One copy of the application for an immigrant visa, when visaed by the consular officer, shall become the immigrant visa, and the other copy shall be disposed of as may be by regulations prescribed. The application for a nonimmigrant visa or other documentation as a nonimmigrant shall be disposed of as may be by regulations prescribed. The issuance of a nonimmigrant visa shall, except as may be otherwise by regulations prescribed, be evidenced by a stamp placed by the consular officer in the alien's passport.

(f) Confidential nature of records.

The records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States, except that in the discretion of the Secretary of State certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court. (June 27, 1952, ch. 477, title II, ch. 3, § 222, 66 Stat. 193; Sept. 26, 1961, Pub. L. 87-301, § 6, 75 Stat. 653.)

AMENDMENTS

1961—Subsecs. (a) and (c). Pub. L. 87-301 eliminated the requirement to state applicant's race and ethnic classification.

CROSS REFERENCES

Definition of the term—

- Allen, see section 1101 (a) (3) of this title.
- Child, see section 1101 (b) (1), (c) (1), of this title.
- Consular officer, see section 1101 (a) (9) of this title.
- Entry, see section 1101 (a) (13) of this title.
- Immigrant, see section 1101 (a) (15) of this title.
- Immigrant visa, see section 1101 (a) (16) of this title.
- Immigration laws, see section 1101 (a) (17) of this title.
- National, see section 1101 (a) (21) of this title.
- Nonimmigrant visas, see section 1101 (a) (26) of this title.
- Nonquota immigrant, see section 1101 (a) (27) of this title.
- Parent, see section 1101 (b) (2), (c) (2), of this title.
- Passport, see section 1101 (a) (30) of this title.
- Permits to enter, as used in section 1185, see section 1185 (g) of this title.
- Residence, see section 1101 (a) (33) of this title.
- Spouse, see section 1101 (a) (35) of this title.
- Unmarried, see section 1101 (a) (39) of this title.
- Detention of aliens for observation and examination, see section 1222 of this title.
- Presumption that—
 - Immigrant is a quota immigrant, see section 1153 (e) of this title.
 - Quota immigrant is a nonpreference quota immigrant, see section 1153 (e) of this title.
- Registration and fingerprinting of alien applying for a visa, see section 1201 (b) of this title.
- Submission of alien seeking—
 - Immigrant visa to physical and mental examination required, see section 1201 (a) of this title.
 - Nonimmigrant visa to physical or mental examination, or both, required when necessary to ascertain eligibility for visa, see section 1201 (d) of this title.

§ 1203. Re-entry permit.

(a) Application; contents.

(1) Any alien lawfully admitted for permanent residence, or (2) any alien lawfully admitted to the United States pursuant to clause 6 of section 3 of the Immigration Act of 1924, between July 1, 1924, and July 5, 1932, both dates inclusive, who intends to depart temporarily from the United States may make application to the Attorney General for a permit to reenter the United States, stating the length of his intended absence or absences, and the reasons therefor. Such applications shall be made under oath, and shall be in such form, contain such information, and be accompanied by such photographs of the applicant as may be by regulations prescribed.

(b) Issuance of permit; extension.

If the Attorney General finds (1) that the applicant under subsection (a) (1) of this section has been lawfully admitted to the United States for permanent residence, or that the applicant under subsection (a) (2) of this section has since admission maintained the status required of him at the time of his admission and such applicant desires to visit abroad and to return to the United States to resume the status existing at the time of his departure for such visit, (2) that the application is made in good faith, and (3) that the alien's proposed departure from the United States would not be contrary to the interests of the United States, the Attorney General may, in his discretion, issue the permit, which shall be valid for not more than one year from the date of issuance; *Provided*, That the Attorney General may in his discretion extend the validity of the permit for a period or periods not exceeding one year in the aggregate. The permit shall be in such form as shall be by regulations prescribed for the complete identification of the alien.

(c) Multiple reentries.

During the period of validity, such permit may be used by the alien in making one or more applications for reentry into the United States.

(d) Presented and surrendered.

Upon the return of the alien to the United States the permit shall be presented to the immigration officer at the port of entry, and upon the expiration of its validity, the permit shall be surrendered to the Service.

(e) Permit in lieu of visa.

A permit issued under this section in the possession of the person to whom issued, shall be accepted in lieu of any visa which otherwise would be required from such person under this chapter. Otherwise a permit issued under this section shall have no effect under the immigration laws except to show that the alien to whom it was issued is returning from a temporary visit abroad; but nothing in this section shall be construed as making such permit the exclusive means of establishing that the alien is so returning. (June 27, 1952, ch. 477, title II, ch. 3, § 223, 66 Stat. 194.)

REFERENCES IN TEXT

Clause (6) of section 3 of the Immigration Act of 1924, referred to in subsec. (a), was formerly classified to sec-

tion 203 (6) of this title, was repealed by section 403 (a) (2) of act June 27, 1952, and is now covered by section 1101 (a) (15) (E) of this title.

CROSS REFERENCES

Cost of maintenance not to be assessed upon arrival of alien with unexpired reentry permit, see section 1227 (a) of this title.

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigration laws, see section 1101 (a) (17) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

United States, see section 1101 (a) (38) of this title.

Detention expenses not to be assessed upon arrival of alien with unexpired reentry permit, see section 1223 (c) of this title.

Readmission without reentry permit of certain aliens who depart from United States temporarily, see section 1181 (b) of this title.

§ 1201. Nonquota immigrant visas.

A consular officer, may, subject to the limitations provided in sections 1154, 1155 and 1201 of this title, issue an immigrant visa to a nonquota immigrant as such upon satisfactory proof, under regulations prescribed under this chapter, that the applicant is entitled to a nonquota immigrant status. (June 27, 1952, ch. 477, title II, ch. 3, § 224, 66 Stat. 195.)

CROSS REFERENCES

Definition of the term—

Consular officer, see section 1101 (a) (9) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Nonquota immigrant, see section 1101 (a) (27) of this title.

§ 1205. Repealed. Pub. L. 87-301, § 24(a)(2), Sept. 26, 1961, 75 Stat. 657.

Section, Pub. L. 85-316, § 4, Sept. 11, 1957, 71 Stat. 639; Pub. L. 86-253, § 2, Sept. 9, 1959, 73 Stat. 490; Pub. L. 86-648, § 7, July 14, 1961, 74 Stat. 505, related to non-quota immigrant visas for eligible orphans. See sections 1101 (b) (6), 1155 (b), and 1201 (c) of this title.

PART IV.—PROVISIONS RELATING TO ENTRY AND EXCLUSION

§ 1221. Lists of alien and citizen passengers arriving and departing.

(a) Shipment or aircraft manifest; arrival; form and contents; exclusions.

Upon the arrival of any person by water or by air at any port within the United States from any place outside the United States, it shall be the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having any such person on board to deliver to the immigration officers at the port of arrival typewritten or printed lists or manifests of the persons on board such vessel or aircraft. Such lists or manifests shall be prepared at such time, be in such form and shall contain such information as the Attorney General shall prescribe by regulation as being necessary for the identification of the persons transported and for the enforcement of the immigration laws. This subsection shall not require the master or com-

manding officer, or authorized agent, owner, or consignee of a vessel or aircraft to furnish a list or manifest relating (1) to an alien crewman or (2) to any other person arriving by air on a trip originating in foreign contiguous territory, except (with respect to such arrivals by air) as may be required by regulations issued pursuant to section 1229 of this title.

(b) Departure; shipment or aircraft manifest; form and contents; exclusions.

It shall be the duty of the master or commanding officer or authorized agent of every vessel or aircraft taking passengers on board at any port of the United States, who are destined to any place outside the United States, to file with the immigration officers before departure from such port a list of all such persons taken on board. Such list shall be in such form, contain such information, and be accompanied by such documents, as the Attorney General shall prescribe by regulation as necessary for the identification of the persons so transported and for the enforcement of the immigration laws. No master or commanding officer of any such vessel or aircraft shall be granted clearance papers for his vessel or aircraft until he or the authorized agent has deposited such list or lists and accompanying documents with the immigration officer at such port and made oath that they are full and complete as to the information required to be contained therein, except that in the case of vessels or aircraft which the Attorney General determines are making regular trips to ports of the United States, the Attorney General may, when expedient, arrange for the delivery of lists of outgoing persons at a later date. This subsection shall not require the master or commanding officer, or authorized agent, owner, or consignee of a vessel or aircraft to furnish a list or manifest relating (1) to an alien crewman or (2) to any other person departing by air on a trip originating in the United States who is destined to foreign contiguous territory, except (with respect to such departure by air) as may be required by regulations issued pursuant to section 1229 of this title.

(c) Record of citizens and resident aliens leaving permanently for foreign countries.

The Attorney General may authorize immigration officers to record the following information regarding every resident person leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Names, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen or national, the facts on which claim to that status is based.

(d) Penalties against noncomplying shipments or aircraft.

If it shall appear to the satisfaction of the Attorney General that the master or commanding officer, owner, or consignee of any vessel or aircraft, or the agent of any transportation line, as the case may be, has refused or failed to deliver any list or manifest required by subsection (a) or

(b) of this section, or that the list or manifest delivered is not accurate and full, such master or commanding officer, owner, or consignee, or agent, as the case may be, shall pay to the collector of customs at the port of arrival or departure the sum of \$10 for each person concerning whom such accurate and full list or manifest is not furnished, or concerning whom the manifest or list is not prepared and sworn to as prescribed by this section or by regulations issued pursuant thereto. No vessel or aircraft shall be granted clearance pending determination of the question of the liability to the payment of such penalty, or while it remains unpaid, and no such penalty shall be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such penalty.

(c) Waiver of requirements.

The Attorney General is authorized to prescribe the circumstances and conditions under which the list or manifest requirements of subsections (a) and (b) of this section may be waived. (June 27, 1952, ch. 477, title II, ch. 4, § 231, 66 Stat. 195.)

CROSS REFERENCES

Bonds—

Bond from nonimmigrant alien as prerequisite to admission to the United States, see section 1184 (a) of this title.

Bond or cash deposit as prerequisite to admission of aliens likely to become public charges or with certain physical disabilities, see section 1183 of this title.

Bond or undertaking as prerequisite to issuance of visas to aliens with certain physical disabilities or likely to become public charges, see section 1201 (g) of this title.

Exaction from excludable aliens applying for temporary admission, see section 1182 (d) (6) of this title.

Forms to be prescribed by Attorney General, see section 1103 (a) of this title.

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Crewman, see section 1101 (a) (10) of this title.

Immigration laws, see section 1101 (a) (10) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

National, see section 1101 (a) (21) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Permanent, see section 1101 (a) (31) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

Unmarried, see section 1101 (a) (39) of this title.

§ 1222. Detention of aliens for observation and examination upon arrival.

For the purpose of determining whether aliens (including alien crewmen) arriving at ports of the United States belong to any of the classes excluded by this chapter, by reason of being afflicted with any of the diseases or mental or physical defects or disabilities set forth in section 1182 (a) of this title, or whenever the Attorney General has received information showing that any aliens are coming from a country or have embarked at a place where any of such diseases are prevalent or epidemic, such aliens shall be detained on board the vessel or at the airport of arrival of the aircraft bringing them, unless the Attorney General directs their detention

in a United States immigration station or other place specified by him at the expense of such vessel or aircraft except as otherwise provided in this chapter, as circumstances may require or justify, for a sufficient time to enable the immigration officers and medical officers to subject such aliens to observation and an examination sufficient to determine whether or not they belong to the excluded classes. (June 27, 1952, ch. 477, title II, ch. 4, § 232, 66 Stat. 196.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Crewman, see section 1101 (a) (10) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

§ 1223. Examination upon arrival.

(a) Temporary removal.

Upon the arrival at a port of the United States of any vessel or aircraft bringing aliens (including alien crewmen) the immigration officers may order a temporary removal of such aliens for examination and inspection at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve vessels or aircraft, the transportation lines, or the masters, commanding officers, agents, owners, or consignees of the vessel or aircraft upon which such aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this chapter bind such vessels or aircraft, transportation lines, masters, commanding officers, agents, owners, or consignees. A temporary removal of aliens from such vessels or aircraft ordered pursuant to this subsection shall be made by an immigration officer at the expense of the vessels or aircraft or transportation lines, or the masters, commanding officers, agents, owners, or consignees of such vessels, aircraft or transportation lines, as provided in subsection (b) of this section and such vessels, aircraft, transportation lines, masters, commanding officers, agents, owners, or consignees, shall, so long as such removal lasts, be relieved of responsibility for the safekeeping of such aliens: *Provided*, That such vessels, aircraft, transportation lines, masters, commanding officers, agents, owners, or consignees may with the approval of the Attorney General assume responsibility for the safekeeping of such aliens during their removal to a designated place for examination and inspection, in which event, such removal need not be made by an immigration officer.

(b) Expenses of removal; coverage.

Whenever a temporary removal of aliens is made under this section, the vessels or aircraft or transportation lines which brought them, and the masters, commanding officers, owners, agents, and consignees of the vessel, aircraft, or transportation line upon which they arrived shall pay all expenses of such removal to a designated place for examination and inspection or other place of detention and all expenses arising during subsequent detention, pending a decision on the aliens' eligibility to enter the United States and until they are either allowed

to land or returned to the care of the transportation line or to the vessel or aircraft which brought them. Such expenses shall include maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and transfer to the vessel, aircraft, or transportation line in the event of deportation, except where such expenses arise under section 1227 (d) of this title or in such cases as the Attorney General may prescribe in the case of aliens paroled into the United States temporarily under the provisions of section 1182 (d) (5) of this title.

(c) Detention expenses.

Any detention expenses and expenses incident to detention incurred (but not including expenses of removal to the place of detention) pursuant to this section and section 1222 of this title shall not be assessed under this chapter against the vessel or aircraft or transportation line or the master, commanding officer, owner, agent, or consignee of the vessel, aircraft, or transportation line in the case of (1) any alien who arrived in possession of a valid unexpired immigrant visa, or (2) any alien who was finally admitted to the United States pursuant to this chapter after such detention, or (3) any alien other than an alien crewman, who arrived in possession of a valid unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) application for admission was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event application for admission was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if the vessel, aircraft, or transportation line or the master, commanding officer, owner, agent, or consignee of the vessel, aircraft, or transportation line establishes to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (4) any person claiming United States nationality or citizenship and in possession of an unexpired United States passport issued to him by competent authority, or (5) any person claiming United States nationality or citizenship and in possession of a certificate of identity issued pursuant to section 1503 (b) of this title, or any other document of identity issued or verified by a consular officer which shows on its face that it is currently valid for travel to the United States and who was allowed to land in the United States after such detention.

(d) Penalties.

Any refusal or failure to comply with the provisions of this section shall be punished in the manner specified in section 1227 (b) of this title. (June 27, 1952, ch. 477, title II, ch. 4, § 233, 66 Stat. 198.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.
Attorney General, see section 1101 (a) (5) of this title.

Consular officer, see section 1101 (a) (9) of this title.
Crewman, see section 1101 (a) (10) of this title.
Entry, see section 1101 (a) (13) of this title.
Immigrant visa, see section 1101 (a) (16) of this title.
Immigration officer, see section 1101 (a) (18) of this title.
Nonimmigrant visas, see section 1101 (a) (26) of this title.
Passport, see section 1101 (a) (30) of this title.
Service, see section 1101 (a) (34) of this title.
Reentry permit—
Generally, see section 1203 of this title.
Readmission without reentry permit of certain aliens who depart from United States temporarily, see section 1181 (b) of this title.

§ 1224. Physical and mental examinations; appeal of findings.

The physical and mental examination of arriving aliens (including alien crewmen) shall be made by medical officers of the United States Public Health Service, who shall conduct all medical examinations and shall certify, for the information of the immigration officers and the special inquiry officers, any physical and mental defect or disease observed by such medical officers in any such alien. If medical officers of the United States Public Health Service are not available, civil surgeons of not less than four years' professional experience may be employed for such service upon such terms as may be prescribed by the Attorney General. Aliens (including alien crewmen) arriving at ports of the United States shall be examined by at least one such medical officer or civil surgeon under such administrative regulations as the Attorney General may prescribe, and under medical regulations prepared by the Surgeon General of the United States Public Health Service. Medical officers of the United States Public Health Service who have had special training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Attorney General may designate, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens who it is suspected may be excludable under paragraphs (1)—(4) or (5) of section 1182 (a) of this title, and the services of interpreters shall be provided for such examination. Any alien certified under paragraphs (1)—(4) or (5) of section 1182 (a) of this title, may appeal to a board of medical officers of the United States Public Health Service, which shall be convened by the Surgeon General of the United States Public Health Service, and any such alien may introduce before such board one expert medical witness at his own cost and expense. (June 27, 1952, ch. 477, title II, ch. 4, § 234, 66 Stat. 198.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.
Attorney General, see section 1101 (a) (5) of this title.
Crewman, see section 1101 (a) (10) of this title.
Entry, see section 1101 (a) (13) of this title.
Immigration officer, see section 1101 (a) (18) of this title.
Special inquiry officer, see section 1101 (b) (4) of this title.
Public Health Service, see chapter 6A of Title 42, The Public Health and Welfare.

§ 1225. Inspection by Immigration Officers.

(a) Powers of officers.

The inspection, other than the physical and mental examination, of aliens (including alien crewmen) seeking admission or readmission to or the privilege of passing through the United States shall be conducted by immigration officers, except as otherwise provided in regard to special inquiry officers. All aliens arriving at ports of the United States shall be examined by one or more immigration officers at the discretion of the Attorney General and under such regulations as he may prescribe. Immigration officers are authorized and empowered to board and search any vessel, aircraft, railway car, or other conveyance, or vehicle in which they believe aliens are being brought into the United States. The Attorney General and any immigration officer, including special inquiry officers, shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this chapter and the administration of the Service, and, where such action may be necessary, to make a written record of such evidence. Any person coming into the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain in the United States, whether or not he intends to remain in the United States permanently and, if an alien, whether he intends to become a citizen thereof, and such other items of information as will aid the immigration officer in determining whether he is a national of the United States or an alien and, if the latter, whether he belongs to any of the excluded classes enumerated in section 1182 of this title. The Attorney General and any immigration officer, including special inquiry officers, shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and special inquiry officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this chapter and the administration of the Service, and to that end may invoke the aid of any court of the United States. Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer or special inquiry officer may, in the event of neglect or refusal to respond to a subpoena issued under this subsection or refusal to testify before an immigration officer or special inquiry officer, issue an order requiring such persons to appear before an immigration officer or special inquiry officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) Detention for further inquiry; challenge of favorable decision.

Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of

this section and in section 1323 (d) of this title, who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before a special inquiry officer for further inquiry.

(c) Temporary exclusion; permanent exclusion by Attorney General.

Any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during the examination before either of such officers to be excludable under paragraphs (27), (28), or (29) of section 1182 (a) of this title shall be temporarily excluded, and no further inquiry by a special inquiry officer shall be conducted until after the case is reported to the Attorney General together with any such written statement and accompanying information, if any, as the alien or his representative may desire to submit in connection therewith and such an inquiry or further inquiry is directed by the Attorney General. If the Attorney General is satisfied that the alien is excludable under any of such paragraphs on the basis of information of a confidential nature, the disclosure of which the Attorney General, in the exercise of his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his discretion order such alien to be excluded and deported without any inquiry or further inquiry by a special inquiry officer. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman. (June 27, 1952, ch. 477, title II, ch. 4, § 235, 66 Stat. 198.)

CROSS REFERENCES

Contempts, see chapter 21 of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Crewman, see section 1101 (a) (10) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Service, see section 1101 (a) (34) of this title.

Special inquiry officer, see section 1101 (b) (4) of this title.

United States, see section 1101 (3) (38) of this title.

Revocation of approval of certain petitions, notice, see section 1156 of this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal contempt, see rule 42, Title 18, Appendix, Crimes and Criminal Procedure.

§ 1226. Exclusion of aliens.

(a) Proceedings.

A special inquiry officer shall conduct proceedings under this section, administer oaths, present and receive evidence, and interrogate, examine, and cross-examine the alien or witnesses. He shall have au-

thority in any case to determine whether an arriving alien who has been detained for further inquiry under section 1225 of this title shall be allowed to enter or shall be excluded and deported. The determination of such special inquiry officer shall be based only on the evidence produced at the inquiry. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer under this section shall be conducted in accordance with this section, the applicable provisions of sections 1225 and 1357 (b) of this title, and such regulations as the Attorney General shall prescribe, and shall be the sole and exclusive procedure for determining admissibility of a person to the United States under the provisions of this section. At such inquiry, which shall be kept separate and apart from the public, the alien may have one friend or relative present, under such conditions as may be prescribed by the Attorney General. A complete record of the proceedings and of all testimony and evidence produced at such inquiry, shall be kept.

(b) Appeal.

From a decision of a special inquiry officer excluding an alien, such alien may take a timely appeal to the Attorney General, and any such alien shall be advised of his right to take such appeal. No appeal may be taken from a temporary exclusion under section 1225 (c) of this title. From a decision of the special inquiry officer to admit an alien, the immigration officer in charge at the port where the inquiry is held may take a timely appeal to the Attorney General. An appeal by the alien, or such officer in charge, shall operate to stay any final action with respect to any alien whose case is so appealed until the final decision of the Attorney General is made. Except as provided in section 1225 (c) of this title such decision shall be rendered solely upon the evidence adduced before the special inquiry officer.

(c) Finality of decision of special inquiry officers.

Except as provided in subsections (b) or (d) of this section, in every case where an alien is excluded from admission into the United States, under this chapter or any other law or treaty now existing or hereafter made, the decision of a special inquiry officer shall be final unless reversed on appeal to the Attorney General.

(d) Physical and mental defects.

If a medical officer or civil surgeon or board of medical officers has certified under section 1224 of this title that an alien is afflicted with a disease specified in section 1182 (a) (6) of this title, or with any mental disease, defect, or disability which would bring such alien within any of the classes excluded from admission to the United States under paragraphs (1)—(4) or (5) of section 1182 (a) of this title, the decision of the special inquiry officer shall be based solely upon such certification. No alien shall have a right to appeal from such an excluding decision of a special inquiry officer. If an alien is excluded by a special inquiry officer because of the

existence of a physical disease, defect, or disability, other than one specified in section 1182 (a) (6) of this title, the alien may appeal from the excluding decision in accordance with subsection (b) of this section, and the provisions of section 1183 of this title may be invoked. (June 27, 1952, ch. 477, title II, ch. 4, § 236, 66 Stat. 200.)

CROSS REFERENCES

Definition of the term—

- Alien, see section 1101 (a) (3) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- Entry, see section 1101 (a) (13) of this title.
- Immigration officer, see section 1101 (a) (18) of this title.
- Special inquiry officer, see section 1101 (a) (4) of this title.
- Judicial review of orders of exclusion, see section 1105a of this title.
- Revocation of approval of certain petitions, notice, see section 1156 of this title.

§ 1227. Immediate deportation of aliens excluded from admission or entering in violation of law.

(a) Maintenance expenses.

Any alien (other than an alien crewman) arriving in the United States who is excluded under this chapter, shall be immediately deported to the country whence he came, in accommodations of the same class in which he arrived, on the vessel or aircraft bringing him, unless the Attorney General, in an individual case, in his discretion, concludes that immediate deportation is not practicable or proper. The cost of the maintenance including detention expenses and expenses incident to detention of any such alien while he is being detained, as well as the transportation expense of his deportation from the United States, shall be borne by the owner or owners of the vessel or aircraft on which he arrived, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) if the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if the owner or owners of such vessel or aircraft established to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (3) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority.

(b) Unlawful practice of transportation lines.

It shall be unlawful for any master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft (1) to refuse to receive any alien (other than an alien crewman), ordered deported under this section back on board such vessel or aircraft or another vessel or aircraft owned or operated by the same interests; (2) to fail to detain any alien (other than an alien crewman) on board any such vessel or at the airport of arrival of the aircraft when required by this chapter or if so ordered by an immigration officer, or to fail or refuse to deliver him for medical or other inspection, or for further medical or other inspection, as and when so ordered by such officer; (3) to refuse or fail to remove him from the United States to the country whence he came; (4) to fail to pay the cost of his maintenance while being detained as required by this section or section 1223 of this title; (5) to take any fee, deposit, or consideration on a contingent basis to keep¹ or returned in case the alien is landed or excluded; or (6) knowingly to bring to the United States any alien (other than an alien crewman) excluded or arrested and deported under any provision of law until such alien may be lawfully entitled to reapply for admission to the United States. If it shall appear to the satisfaction of the Attorney General that any such master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft has violated any of the provisions of this section or of section 1223 of this title, such master, commanding officer, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the district in which port of arrival is situated or in which any vessel or aircraft of the line may be found, the sum of \$300 for each violation. No such vessel or aircraft shall have clearance from any port of the United States while any such fine is unpaid or while the question of liability to pay any such fine is being determined, nor shall any such fine be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such fine.

(c) Recovery of maintenance expenses by United States.

If the vessel or aircraft, by which any alien who has been ordered deported under this section arrived, has left the United States and it is impracticable to deport the alien within a reasonable time by another vessel or aircraft owned by the same person, the cost of deportation may be paid from the appropriation for the enforcement of this chapter and recovered by civil suit from any owner, agent, or consignee of the vessel or aircraft.

(d) Stay of deportation; payment of maintenance expenses.

The Attorney General, under such conditions as are by regulations prescribed, may stay the deportation of any alien deportable under this section, if in his judgment the testimony of such alien is necessary on behalf of the United States in the prosecution of

offenders against any provision of this chapter or other laws of the United States. The cost of maintenance of any person so detained resulting from a stay of deportation under this subsection and a witness fee in the sum of \$1 per day for each day such person is so detained may be paid from the appropriation for the enforcement of this subchapter. Such alien may be released under bond in the penalty of not less than \$500 with security approved by the Attorney General on condition that such alien shall be produced when required as a witness and for deportation, and on such other conditions as the Attorney General may prescribe.

(e) Deportation of alien accompanying physically disabled alien.

Upon the certificate of an examining medical officer to the effect that an alien ordered to be excluded and deported under this section is helpless from sickness or mental and physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by the alien ordered excluded and deported, such accompanying alien may also be excluded and deported, and the master, commanding officer, agent, owner, or consignee of the vessel or aircraft in which such alien and accompanying alien arrived in the United States shall be required to return the accompanying alien in the same manner as other aliens denied admission and ordered deported under this section. (June 27, 1952, ch. 477, title II, ch. 4, § 237, 66 Stat. 201.)

CROSS REFERENCES

Bond or undertaking with collector of customs as prerequisite to granting clearance prior to determination of question involving delivery of lists or manifests, see section 1221 (d) of this title.

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Crewman, see section 1101 (a) (10) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Nonimmigrant visas, see section 1101 (a) (20) of this title.

Passport, see section 1101 (a) (36) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

Reentry permit—

Generally, see section 1203 of this title.

Readmission without reentry permit of certain aliens who depart from United States temporarily, see section 1181 (b) of this title.

§ 1228. Entry through or from foreign contiguous territory and adjacent islands.**(a) Contracts with transportation lines; rules and regulations.**

The Attorney General shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States through foreign contiguous territory or through adjacent islands. In prescribing rules and regulations and making contracts for the entry and inspection of aliens applying for admission through foreign contiguous territory or through adjacent islands, due care shall be exercised to avoid any dis-

¹ So in original. Probably should read "be".

criminatory action in favor of transportation companies transporting to such territory or islands aliens destined to the United States, and all such transportation companies shall be required, as a condition precedent to the inspection or examination under such rules and contracts at the ports of such contiguous territory or such adjacent islands of aliens brought thereto by them, to enter into a contract which will require them to submit to and comply with all the requirements of this chapter which would apply were they bringing such aliens directly to ports of the United States.

(b) Same; necessity of transportation contract.

The Attorney General shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States from foreign contiguous territory or from adjacent islands. No such transportation line shall be allowed to land any such alien in the United States until and unless it has entered into any such contracts which may be required by the Attorney General.

(c) Landing stations.

Every transportation line engaged in carrying alien passengers for hire to the United States from foreign contiguous territory or from adjacent islands shall provide and maintain at its expense suitable landing stations, approved by the Attorney General, conveniently located at the point or points of entry. No such transportation line shall be allowed to land any alien passengers in the United States until such landing stations are provided, and unless such stations are thereafter maintained to the satisfaction of the Attorney General.

(d) Landing agreements.

The Attorney General shall have power to enter into contracts including bonding agreements with transportation lines to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. Notwithstanding any other provision of this chapter, such aliens may not have their classification changed under section 1258 of this title.

(e) Definitions.

As used in this section the terms "transportation line" and "transportation company" include, but are not limited to, the owner, charterer, consignee, or authorized agent operating any vessel or aircraft bringing aliens to the United States, to foreign contiguous territory, or to adjacent islands. (June 27, 1952, ch. 477, title II, ch. 4, § 238, 66 Stat. 202.)

CROSS REFERENCES

Definition of the term—

Adjacent islands, see section 1101(b) (5) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Entry, see section 1101 (a) (13) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1229. Designation of ports of entry for aliens arriving by aircraft.

The Attorney General is authorized (1) by regulation to designate as ports of entry for aliens arriving by aircraft any of the ports of entry for civil aircraft designated as such in accordance with

law; (2) by regulation to provide such reasonable requirements for aircraft in civil air navigation with respect to giving notice of intention to land in advance of landing, or notice of landing, as shall be deemed necessary for purposes of administration and enforcement of this chapter; and (3) by regulation to provide for the application to civil air navigation of the provisions of this chapter where not expressly so provided in this chapter to such extent and upon such conditions as he deems necessary. Any person who violates any regulation made under this section shall be subject to a civil penalty of \$500 which may be remitted or mitigated by the Attorney General in accordance with such proceedings as the Attorney General shall by regulation prescribe. In case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien upon the aircraft, and such aircraft may be libeled therefore in the appropriate United States court. The determination by the Attorney General and remission or mitigation of the civil penalty shall be final. In case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien upon the aircraft and may be collected by proceedings in rem which shall conform as nearly as may be to civil suits in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings against aircraft in any particular not otherwise provided by law. Any aircraft made subject to a lien by this section may be summarily seized by, and placed in the custody of such persons as the Attorney General may by regulation prescribe. The aircraft may be released from such custody upon deposit of such amount not exceeding \$500 as the Attorney General may prescribe, or of a bond in such sum and with such sureties as the Attorney General may prescribe, conditioned upon the payment of the penalty which may be finally determined by the Attorney General. (June 27, 1952, ch. 477, title II, ch. 4, § 239, 66 Stat. 203.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Entry, see section 1101 (a) (13) of this title.

Designation of ports of entry for civil aircraft, see section 1509(b) of Title 49, Transportation.

§ 1230. Records of admission.

(a) The Attorney General shall cause to be filed, as a record of admission of each immigrant, the immigrant visa required by section 1201 (e) of this title to be surrendered at the port of entry by the arriving alien to an immigration officer.

(b) The Attorney General shall cause to be filed such record of the entry into the United States of each immigrant admitted under section 1181 (b) of this title and of each nonimmigrant as the Attorney General deems necessary for the enforcement of the immigration laws. (June 27, 1952, ch. 477, title II, ch. 4, § 240, 66 Stat. 204.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Entry, see section 1101 (a) (13) of this title.
 Immigrant, see section 1101 (a) (15) of this title.
 Immigrant visa, see section 1101 (a) (16) of this title.
 Immigration laws, see section 1101 (a) (17) of this title.
 Immigration officer, see section 1101 (a) (18) of this title.
 Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.
 United States, see section 1001 (a) (38) of this title.

PART V.—DEPORTATION; ADJUSTMENT OF STATUS

CROSS REFERENCES

Registration provisions pertaining to persons trained in foreign espionage systems, deportation in manner provided by this part for violation of, see section 856 of Title 50, War and National Defense.

§ 1251. Deportable aliens.

(a) General classes.

Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(1) at the time of entry was within one or more of the classes of aliens excludable by the law existing at the time of such entry;

(2) entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this chapter or in violation of any other law of the United States;

(3) hereafter, within five years after entry, becomes institutionalized at public expense because of mental disease, defect, or deficiency unless the alien can show that such disease, defect, or deficiency did not exist prior to his admission to the United States;

(4) is convicted of a crime involving moral turpitude committed within five years after entry and either sentenced to confinement or confined therefor in a prison or corrective institution, for a year or more, or who at any time after entry is convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial;

(5) has failed to comply with the provisions of section 1305 of this title unless he establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful, or has been convicted under section 1306 (c) of this title, or under section 36 (c) of the Alien Registration Act, 1940, or has been convicted of violating or conspiracy to violate any provision of sections 611—621 of Title 22, or has been convicted under section 1546 of Title 18;

(6) is or at any time has been after entry, a member of any of the following classes of aliens:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States; (ii) any other totalitarian party of the United States; (iii) the Communist Political

Association; (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt; *Provided*, That nothing in this paragraph, or in any other provision of this chapter, shall be construed as declaring that the Communist Party does not advocate the overthrow of Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 786 of Title 50, unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety, of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circula-

tion, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display any written or printed matter of the character described in paragraph (G) of this subdivision;

(7) is engaged, or at any time after entry has engaged, or at any time after entry has had a purpose to engage, in any of the activities described in paragraph (27) or (29) of section 1182 (a) of this title, unless the Attorney General is satisfied, in the case of any alien within category (C) of paragraph (29) of section 1182 (a) of this title, that such alien did not have knowledge or reason to believe at the time such alien became a member of, affiliated with, or participated in the activities of the organization (and did not thereafter and prior to the date upon which such organization was registered or required to be registered under section 786 of Title 50 have such knowledge or reason to believe) that such organization was a Communist organization;

(8) in the opinion of the Attorney General, has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry;

(9) was admitted as a nonimmigrant and failed to maintain the nonimmigrant status in which he was admitted or to which it was changed pursuant to section 1258 of this title, or to comply with the conditions of any such status;

(10) entered the United States from foreign contiguous territory or adjacent islands, having arrived there on a vessel or aircraft of a non-signatory transportation company under section 1228 (a) of this title and was without the required period of stay in such foreign contiguous territory or adjacent islands following such arrival (other than an alien who is a native-born citizen of any of the countries enumerated in section 1101 (a) (27) (C) of this title and an alien described in section 1101 (a) (27) (B) of this title);

(11) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time

has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs or marihuana, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, any salt derivative or preparation of opium or coca leaves or isonipocaine or any addiction-forming or addiction-sustaining opiate;

(12) by reason of any conduct, behavior or activity at any time after entry became a member of any of the classes specified in paragraph (12) of section 1182 (a) of this title; or is or at any time after entry has been the manager, or is or at any time after entry has been connected with the management, of a house of prostitution or any other immoral place;

(13) prior to, or at the time of any entry or at any time within five years after any entry, shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(14) at any time after entry, shall have been convicted of possessing or carrying in violation of any law any weapon which shoots or is designed to shoot automatically or semiautomatically more than one shot without manual reloading, by a single function of the trigger, or a weapon commonly called a sawed-off shotgun;

(15) at any time within five years after entry, shall have been convicted of violating the provisions of title I of the Alien Registration Act, 1940;

(16) at any time after entry, shall have been convicted more than once of violating the provisions of title I of the Alien Registration Act, 1940; or

(17) the Attorney General finds to be an undesirable resident of the United States by reason of any of the following, to wit: has been or may hereafter be convicted of any violation or conspiracy to violate any of the following Acts or parts of Acts or any amendment thereto, the judgment on such conviction having become final, namely: an Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918; sections 791, 792, 793, 794, 2388, and 3241, of Title 18; an Act entitled "An Act to prevent in time of war departure from and entry into the United States contrary to the public safety", approved May 22, 1918; section 1185 of this title; an Act entitled "An Act to punish the willful injury or destruction of war material or of war premises or utilities used in connection with war material, and for

other purposes", approved April 20, 1918; sections 2151 and 2153—2156 of Title 18; an Act entitled "An Act to authorize the President to increase temporarily the Military Establishment of the United States", approved May 18, 1917, or any amendment thereof or supplement thereto; the Selective Training and Service Act of 1940; the Selective Service Act of 1948; the Universal Military Training and Service Act; an Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917, section 871 of Title 18; an Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes", approved October 6, 1917, or any amendment thereof; the Trading With the Enemy Act; section 6 of the Penal Code of the United States; section 2384 of Title 18; has been convicted of any offense against section 13 of the Penal Code of the United States committed during the period of August 1, 1914, to April 6, 1917, or of a conspiracy occurring within said period to commit an offense under said section 13 or of any offense committed during said period against the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, in aid of a belligerent in the European war; section 960 of Title 18; or (18) has been convicted under section 1328 of this title or under section 4 of the Immigration Act of February 5, 1917.

(b) Nonapplicability of subsection (a) (4).

The provisions of subsection (a) (4) of this section respecting the deportation of an alien convicted of a crime or crimes shall not apply (1) in the case of any alien who has subsequent to such conviction been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States, or (2) if the court sentencing such alien for such crime shall make, at the time of first imposing judgment or passing sentence, or within thirty days thereafter, a recommendation to the Attorney General that such alien not be deported, due notice having been given prior to making such recommendation to representatives of the interested State, the Service, and prosecution authorities, who shall be granted an opportunity to make representations in the matter. The provisions of this subsection shall not apply in the case of any alien who is charged with being deportable from the United States under subsection (a) (11) of this section.

(c) Fraudulent entry.

An alien shall be deported as having procured a visa or other documentation by fraud within the meaning of paragraph (19) of section 1182 (a) of this title, and to be in the United States in violation of this chapter within the meaning of subsection (a) (2) of this section, if (1) hereafter he or she obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than two years prior to such entry of the alien and which, within two years subsequent to any entry of the alien into the United States, shall be judicially annulled or terminated, unless such alien shall establish to the

satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws; or (2) it appears to the satisfaction of the Attorney General that he or she has failed or refused to fulfill his or her marital agreement which in the opinion of the Attorney General was hereafter made for the purpose of procuring his or her entry as an immigrant.

(d) Applicability to all aliens.

Except as otherwise specifically provided in this section, the provisions of this section shall be applicable to all aliens belonging to any of the classes enumerated in subsection (a) of this section, notwithstanding (1) that any such alien entered the United States prior to June 27, 1952, or (2) that the facts, by reason of which any such alien belongs to any of the classes enumerated in subsection (a) of this section, occurred prior to June 27, 1952.

(e) Deportation of certain nonimmigrants.

An alien, admitted as a nonimmigrant under the provisions of either section 1101 (a) (15) (A) (1) or (a) (15) (G) (1) of this title, and who fails to maintain a status under either of those provisions, shall not be required to depart from the United States without the approval of the Secretary of State, unless such alien is subject to deportation under subsection (a) (6) or (7) of this section.

(f) Relationship to United States citizen or lawfully admitted alien as affecting deportation for fraudulent entry.

The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure, or have procured visas or other documentation, or entry into the United States by fraud or misrepresentation shall not apply to an alien otherwise admissible at the time of entry who is the spouse, parent, or a child of a United States citizen or of an alien lawfully admitted for permanent residence. (June 27, 1952, ch. 477, title II, ch. 5, § 241, 66 Stat. 204; July 18, 1956, ch. 629, title III, § 301 (b), (c), 70 Stat. 575; July 14, 1960, Pub. L. 86-648, § 9, 74 Stat. 505; Sept. 26, 1961, Pub. L. 87-301, § 16, 75 Stat. 655.)

REFERENCES IN TEXT

Section 36 (c) of the Alien Registration Act, 1940, referred to in subsec. (a) (5), was formerly classified to section 457 of this title, was repealed by section 403 (a) (39) of act June 27, 1952, and is now covered by section 1306 (c) of this title.

Title 1 of the Alien Registration Act, 1940, referred to subsec. (a) (15), (16), was formerly classified to sections 9—13 of Title 18, Crimes and Criminal Procedure, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and is now covered by sections 2385 and 2387 of said Title 18 and Fed. Rules Cr. Proc. rule 41 (c), Title 18, Appendix, Crimes and Criminal Procedure.

An Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918, referred to in subsec. (a) (17), was formerly classified to Title 18, Crimes and Criminal Procedure, and was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862.

Section 791 of Title 18, referred to in subsec. (a) (17), was repealed by Pub. L. 87-369, § 1, Oct. 4, 1961, 75 Stat. 795.

An Act entitled "An Act to prevent in time of war departure from and entry into the United States con-

trary to the public safety", approved May 22, 1918, referred to in subsec. (a) (17), was formerly classified to sections 223—228b of Title 22, Foreign Relations and Intercourse, was repealed by section 403 (a) (15) of act June 27, 1952, and is now covered by section 1185 of this title.

An Act entitled "An Act to punish the willful injury or destruction of war material or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918, referred to in subsec. (a) (17), was formerly classified to sections 101—106 of Title 50, War and National Defense, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 802, and is now covered by sections 2151 and 2153—2156 of Title 18, Crimes and Criminal Procedure.

An Act entitled "An Act to authorize the President to increase temporarily the Military establishment of the United States", approved May 18, 1917, or any amendment thereof or supplement thereto, referred to in subsec. (a) (17), was formerly classified to sections 201—211 of Appendix to Title 50, War and National Defense, and has been omitted as obsolete.

The Selective Training and Service Act of 1940, referred to in subsec. (a) (17), was formerly classified to sections 301—318 of Appendix to said Title 50, and has been omitted as obsolete.

The Selective Service Act of 1948 and the Universal Military Training Act, referred to in subsec. (a) (17), are classified to section 451 et seq. of Appendix to said Title 50.

An Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917, referred to in subsec. (a) (17), was formerly classified to section 89 of Title 18, Crimes and Criminal Procedure, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 802, and is now covered by section 871 of said Title 18.

The Trading With The Enemy Act, referred to in subsec. (a) (17) is classified to sections 1—6, 7—39 of Appendix to said Title 50.

Sections 6 and 13 of the Penal Code of the United States, referred to in subsec. (a) (17), were formerly classified to sections 6 and 13 of Title 18, Crimes and Criminal Procedure, were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 802, and are now covered by sections 2384 and 960, respectively, of said Title 18.

An Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies, approved July 2, 1890, referred to in subsec. (a) (17), is classified to sections 1—7 of Title 15, Commerce and Trade.

Section 4 of the Immigration Act of February 5, 1917, referred to in subsec. (a) (18), was formerly classified to section 138 of this title, was repealed by section 403 (a) (13) of act June 27, 1952, and is now covered by sections 1326, 1328 and 1329 of this title.

AMENDMENTS

1961—Subsec. (f). Pub. L. 87-301 added subsec. (f).
1960—Subsec. (a). Pub. L. 86-648 inserted "or marijuana" following "narcotic drugs" in cl. (11).

1956—Subsec. (a) (11). Act July 18, 1956, § 301 (b), included conspiracy to violate any narcotic law, and the illicit possession of narcotics, as additional grounds for deportation.

Subsec. (b). Act July 18, 1956, § 301 (c), inserted "The provisions of this subsection shall not apply in the case of any alien who is charged with being deportable from the United States under subsection (a) (11) of this section."

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 18, 1956, effective July 10, 1956, see section 401 of act July 18, 1956, set out as a note under section 1401 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see note set out under section 1101 of this title.

CROSS REFERENCES

Conspiracy, see chapter 19 of Title 18, Crimes and Criminal Procedure.

Convicted aliens, deportation after imprisonment, see section 1252 (h) of this title.

Definition of the term—

Adjacent islands, see section 1101 (b) (5) of this title.

Advocates, see section 1101 (a) (2) of this title.

Advocating a doctrine, see section 1101 (e) (1) of this title.

Advocating the doctrines of world communism, see section 1101 (e) (3) of this title.

Affiliation, see section 1101 (e) (2) of this title.

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Crewman, see section 1101 (a) (10) of this title.

Doctrine, see section 1101 (a) (12) of this title.

Entry, see section 1101 (a) (13) of this title.

Foreign state, see section 1101 (a) (14) of this title.

Immigrant, see section 1101 (a) (15) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Immigration laws, see section 1101 (a) (17) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A-I) of this title.

Organization, see section 1101 (a) (28) of this title.

Service, see section 1101 (a) (34) of this title.

Totalitarian party and totalitarian dictatorship, see section 1101 (a) (37) of this title.

United States, see section 1101 (a) (38) of this title.

Unmarried, see section 1101 (a) (39) of this title.

World communism, see section 1101 (a) (40) of this title.

Diplomatic and semidiplomatic immunities, see section 1102 of this title.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

Peace Corps programs, deportation of foreign participants pursuant to provisions of this section, see section 2508 of Title 22, Foreign Relations and Intercourse.

Principals, see section 2 of Title 18, Crimes and Criminal Procedure.

Reprieves and pardons, power of President to grant, see Const. Art. 2, § 2, cl. 1.

§ 1251a. Repealed. Pub. L. 87-301, § 24(a)(3), Sept. 26, 1961, 75 Stat. 657.

Section, Pub. L. 85-316, § 7, Sept. 11, 1957, 71 Stat. 640, excepted the spouse, child or parent of a United States citizen, and aliens admitted between Dec. 22, 1945 and Nov. 1, 1954, inclusive, who misrepresented their nationality, place of birth, identity or residence, provided this latter group did so misrepresent because of fear of persecution because of race, religion or politics if repatriated and not to evade quota restrictions, or an investigation of themselves, from the deportation provisions of section 1251 of this title which declared excludable, those aliens who sought to procure or procured entry into the United States by fraud and misrepresentation, or who were not of the nationality specified in their visas, and authorized the admission, after Sept. 11, 1957, of any alien spouse, parent or child of a United States citizen or of an alien admitted for permanent residence who sought, or had procured fraudulent entry into the United States or admitted committing perjury in connection therewith, if otherwise admissible and the Attorney General consented, and is now covered by subsec. (h) of section 1182 of this title, and subsec. (f) of section 1251 of this title.

§ 1252. Apprehension and deportation of aliens.

(a) Arrest and custody; review of determination by court.

Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (1) be continued in custody; or (2) be released under bond in the amount of not less than \$500 with security approved

by the Attorney General, containing such conditions as the Attorney General may prescribe; or (3) be released on conditional parole. But such bond or parole, whether heretofore or hereafter authorized, may be revoked at any time by the Attorney General, in his discretion, and the alien may be returned to custody under the warrant which initiated the proceedings against him and detained until final determination of his deportability. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or parole pending final decision of deportability upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to determine deportability.

(b) Proceedings to determine deportability; removal expenses.

A special inquiry officer shall conduct proceedings under this section to determine the deportability of any alien, and shall administer oaths, present and receive evidence, interrogate, examine, and cross-examine the alien or witnesses, and, as authorized by the Attorney General, shall make determinations, including orders of deportation. Determination of deportability in any case shall be made only upon a record made in a proceeding before a special inquiry officer, at which the alien shall have reasonable opportunity to be present, unless by reason of the alien's mental incompetency it is impracticable for him to be present, in which case the Attorney General shall prescribe necessary and proper safeguards for the rights and privileges of such alien. If any alien has been given a reasonable opportunity to be present at a proceeding under this section, and without reasonable cause fails or refuses to attend or remain in attendance at such proceeding, the special inquiry officer may proceed to a determination in like manner as if the alien were present. In any case or class of cases in which the Attorney General believes that such procedure would be of aid in making a determination, he may require specifically or by regulation that an additional immigration officer shall be assigned to present the evidence on behalf of the United States and in such case such additional immigration officer shall have authority to present evidence, and to interrogate, examine and cross-examine the alien or other witnesses in the proceedings. Nothing in the preceding sentence shall be construed to diminish the authority conferred upon the special inquiry officer conducting such proceedings. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer acting under the provisions of this section shall be in accordance with such regulations, not inconsistent with this chapter, as the Attorney General shall prescribe. Such regulations shall include requirements that—

(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the

charges against him and of the time and place at which the proceedings will be held;

(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose;

(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence in his own behalf, and to cross-examine witnesses presented by the Government; and

(4) no decision of deportability shall be valid unless it is based upon reasonable substantial, and probative evidence.

The procedure so prescribed shall be the sole and exclusive procedure for determining the deportability of an alien under this section. In any case in which an alien is ordered deported from the United States under the provisions of this chapter, or of any other law or treaty, the decision of the Attorney General shall be final. In the discretion of the Attorney General, and under such regulations as he may prescribe, deportation proceedings, including issuance of a warrant of arrest, and a finding of deportability under this section need not be required in the case of any alien who admits to belonging to a class of aliens who are deportable under section 1251 of this title if such alien voluntarily departs from the United States at his own expense, or is removed at Government expense as hereinafter authorized, unless the Attorney General has reason to believe that such alien is deportable under paragraphs (4)—(7), (11), (12), (14)—(17), or (18) of section 1251 (a) of this title. If any alien who is authorized to depart voluntarily under the preceding sentence is financially unable to depart at his own expense and the Attorney General deems his removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this chapter.

(c) Final order of deportation; place of detention.

When a final order of deportation under administrative processes is made against any alien, the Attorney General shall have a period of six months from the date of such order, or, if judicial review is had, then from the date of the final order of the court, within which to effect the alien's departure from the United States, during which period, at the Attorney General's discretion, the alien may be detained, released on bond in an amount and containing such conditions as the Attorney General may prescribe, or released on such other condition as the Attorney General may prescribe. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or other release during such six-month period upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to effect such alien's departure from the United States within such six-month period. If deportation has not been practicable, advisable, or possible, or departure of the alien from the United States

under the order of deportation has not been effected, within such six-month period, the alien shall become subject to such further supervision and detention pending eventual deportation as is authorized in this section. The Attorney General is authorized and directed to arrange for appropriate places of detention for those aliens whom he shall take into custody and detain under this section. Where no Federal buildings are available or buildings adapted or suitably located for the purpose are available for rental, the Attorney General is authorized, notwithstanding section 5 of Title 41 or section 278a of Title 40 to expend, from the appropriation provided for the administration and enforcement of the immigration laws, such amounts as may be necessary for the acquisition of land and the erection, acquisition, maintenance, operation, remodeling, or repair of buildings, sheds, and office quarters (including living quarters for officers where none are otherwise available), and adjunct facilities, necessary for the detention of aliens. For the purposes of this section an order of deportation heretofore or hereafter entered against an alien in legal detention or confinement, other than under an immigration process, shall be considered as being made as of the moment he is released from such detention or confinement, and not prior thereto.

(d) Supervision of deportable alien; violation by alien.

Any alien, against whom a final order of deportation as defined in subsection (c) of this section, heretofore or hereafter issued has been outstanding for more than six months, shall, pending eventual deportation, be subject to supervision under regulations prescribed by the Attorney General. Such regulations shall include provisions which will require any alien subject to supervision (1) to appear from time to time before an immigration officer for identification; (2) to submit, if necessary, to medical and psychiatric examination at the expense of the United States; (3) to give information under oath as to his nationality, circumstances, habits, associations, and activities, and such other information, whether or not related to the foregoing, as the Attorney General may deem fit and proper; and (4) to conform to such reasonable written restrictions on his conduct or activities as are prescribed by the Attorney General in his case. Any alien who shall willfully fail to comply with such regulations, or willfully fail to appear or to give information or submit to medical or psychiatric examination if required, or knowingly give false information in relation to the requirements of such regulations, or knowingly violate a reasonable restriction imposed upon his conduct or activity, shall be fined not more than \$1,000 or shall be imprisoned not more than one year, or both.

(e) Penalty for willful failure to depart; suspension of sentence.

Any alien against whom a final order of deportation is outstanding by reason of being a member of any of the classes described in paragraphs (4)-(7), (11), (12), (14)-(17), or (18) of section 1251 (a) of this title, who shall willfully fail or refuse to depart from the United States within a period of six months from the date of the final order of deportation under administrative processes, or, if judicial review is

had, then from the date of the final order of the court, or September 23, 1950, whichever is the later, or shall willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure, or who shall connive or conspire, or take any other action, designed to prevent or hamper or with the purpose of preventing or hampering his departure pursuant to such order of deportation, or who shall willfully fail or refuse to present himself for deportation at the time and place required by the Attorney General pursuant to such order of deportation, shall upon conviction be guilty of a felony, and shall be imprisoned not more than ten years: *Provided*, That this subsection shall not make it illegal for any alien to take any proper steps for the purpose of securing cancellation of or exemption from such order of deportation or for the purpose of securing his release from incarceration or custody: *Provided further*, That the court may for good cause suspend the sentence of such alien and order his release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as (1) the age, health, and period of detention of the alien; (2) the effect of the alien's release upon the national security and public peace or safety; (3) the likelihood of the alien's resuming or following a course of conduct which made or would make him deportable; (4) the character of the efforts made by such alien himself and by representatives of the country or countries to which his deportation is directed to expedite the alien's departure from the United States; (5) the reason for the inability of the Government of the United States to secure passports, other travel documents, or deportation facilities from the country or countries to which the alien has been ordered deported; and (6) the eligibility of the alien for discretionary relief under the immigration laws.

(f) Unlawful reentry.

Should the Attorney General find that any alien has unlawfully reentered the United States after having previously departed or been deported pursuant to an order of deportation, whether before or after June 27, 1952, on any ground described in any of the paragraphs enumerated in subsection (e) of this section, the previous order of deportation shall be deemed to be reinstated from its original date and such alien shall be deported under such previous order at any time subsequent to such reentry. For the purposes of subsection (e) of this section the date on which the finding is made that such reinstatement is appropriate shall be deemed the date of the final order of deportation.

(g) Voluntary deportation; payment of expenses.

If any alien, subject to supervision or detention under subsections (c) or (d) of this section, is able to depart from the United States under the order of deportation, except that he is financially unable to pay his passage, the Attorney General may in his discretion permit such alien to depart voluntarily, and the expense of such passage to the country to which he is destined may be paid from the appropriation for the enforcement of this chapter, unless

such payment is otherwise provided for under this chapter.

(h) Service of prison sentence prior to deportation.

An alien sentenced to imprisonment shall not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation. (June 27, 1952, ch. 477, title II, ch. 5, § 242, 66 Stat. 208; Sept. 3, 1954, ch. 1263, § 17, 68 Stat. 1232.)

AMENDMENTS

1954—Subsec. (d). Act Sept. 3, 1954, deleted phrase "shall upon conviction be guilty of a felony."

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Alien deported in pursuance of law, see section 1101 (g) of this title.

Conspiracy, see chapter 19 of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Immigration laws, see section 1101 (a) (17) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

National, see section 1101 (a) (21) of this title.

Passport, see section 1101 (a) (30) of this title.

Special Inquiry officer, see section 1101 (b) (4) of this title.

United States, see section 1101 (a) (38) of this title.

Habeas corpus, see chapter 153 of Title 28, Judiciary and Judicial Procedure.

Judicial review of orders of deportation, see section 1105a of this title.

Offenses classified, see section 1 of Title 18, Crimes and Criminal Procedure.

Peace Corps programs, deportation of foreign participants pursuant to provisions of this section, see section 2508 of Title 22, Foreign Relations and Intercourse.

Sentence—

Sentence, judgment and execution, see chapter 227 of Title 18, Crimes and Criminal Procedure.

Suspension of sentence and probation, see section 3651 of Title 18, Crimes and Criminal Procedure.

§ 1253. Countries to which aliens shall be deported.

(a) Acceptance by designated country; deportation upon nonacceptance by country.

The deportation of an alien in the United States provided for in this chapter, or any other Act or treaty, shall be directed by the Attorney General to a country promptly designated by the alien if that country is willing to accept him into its territory, unless the Attorney General, in his discretion, concludes that deportation to such country would be prejudicial to the interests of the United States. No alien shall be permitted to make more than one such designation, nor shall any alien designate, as the place to which he wishes to be deported, any foreign territory contiguous to the United States or any island adjacent thereto or adjacent to the United States unless such alien is a native, citizen, subject, or national of, or had a residence in such designated foreign contiguous territory or adjacent island. If the government of the country designated by the alien fails finally to advise the Attorney

General within three months following original inquiry whether that government will or will not accept such alien into its territory, such designation may thereafter be disregarded. Thereupon deportation of such alien shall be directed to any country of which such alien is a subject national, or citizen if such country is willing to accept him into its territory. If the government of such country fails finally to advise the Attorney General or the alien within three months following the date of original inquiry, or within such other period as the Attorney General shall deem reasonable under the circumstances in a particular case, whether that government will or will not accept such alien into its territory, then such deportation shall be directed by the Attorney General within his discretion and without necessarily giving any priority or preference because of their order as herein set forth either—

(1) to the country from which such alien last entered the United States;

(2) to the country in which is located the foreign port at which such alien embarked for the United States or for foreign contiguous territory;

(3) to the country in which he was born;

(4) to the country in which the place of his birth is situated at the time he is ordered deported;

(5) to any country in which he resided prior to entering the country from which he entered the United States;

(6) to the country which had sovereignty over the birthplace of the alien at the time of his birth; or

(7) if deportation to any of the foregoing places or countries is impracticable, inadvisable, or impossible, then to any country which is willing to accept such alien into its territory.

(b) Deportation during war.

If the United States is at war and the deportation, in accordance with the provisions of subsection (a) of this section, of any alien who is deportable under any law of the United States shall be found by the Attorney General to be impracticable, inadvisable, inconvenient, or impossible because of enemy occupation of the country from which such alien came or wherein is located the foreign port at which he embarked for the United States or because of reasons connected with the war, such alien may, in the discretion of the Attorney General, be deported as follows:

(1) if such alien is a citizen or subject of a country whose recognized government is in exile, to the country in which is located that government in exile if that country will permit him to enter its territory; or

(2) if such alien is a citizen or subject of a country whose recognized government is not in exile, then to a country or any political or territorial subdivision thereof which is proximate to the country of which the alien is a citizen or subject, or, with the consent of the country of which the alien is a citizen or subject, to any other country.

(c) Payment of deportation costs; within five years.

If deportation proceedings are instituted at any time within five years after the entry of the alien for causes existing prior to or at the time of entry,

the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this chapter, and the deportation from such port shall be at the expense of the owner or owners of the vessels, aircraft, or other transportation lines by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this chapter: *Provided*, That the costs of the deportation of any such alien from such port shall not be assessed against the owner or owners of the vessels, aircraft, or other transportation lines in the case of any alien who arrived in possession of a valid unexpired immigrant visa and who was inspected and admitted to the United States for permanent residence. In the case of an alien crewman, if deportation proceedings are instituted at any time within five years after the granting of the last conditional permit to land temporarily under the provisions of section 1282 of this title, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this chapter and the deportation from such port shall be at the expense of the owner or owners of the vessels or aircraft by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this chapter.

(d) Same; subsequent to five years.

If deportation proceedings are instituted later than five years after the entry of the alien, or in the case of an alien crewman later than five years after the granting of the last conditional permit to land temporarily, the cost thereof shall be payable from the appropriation for the enforcement of this chapter.

(e) Same; refusal of transportation lines to pay.

A failure or refusal on the part of the master, commanding officer, agent, owner, charterer, or consignee of a vessel, aircraft, or other transportation line to comply with the order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this chapter, or a failure or refusal by any such person to comply with an order of the Attorney General to pay deportation expenses in accordance with the requirements of this section, shall be punished by the imposition of a penalty in the sum and manner prescribed in section 1227 (b) of this title.

(f) Payment of expenses of physically incapable deportees.

When in the opinion of the Attorney General the mental or physical condition of an alien being deported is such as to require personal care and attendance, the Attorney General shall, when necessary, employ a suitable person for that purpose who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed, and any failure or refusal to defray such expenses shall be punished in the manner prescribed by subsection (e) of this section.

(g) Countries delaying acceptance of deportees.

Upon the notification by the Attorney General that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Secretary of State shall instruct consular officers performing their duties in the territory of such country to discontinue the issuance of immigrant visas to nationals, citizens, subjects, or residents of such country, until such time as the Attorney General shall inform the Secretary of State that such country has accepted such alien.

(h) Withholding of deportation.

The Attorney General is authorized to withhold deportation of any alien within the United States to any country in which in his opinion the alien would be subject to physical persecution and for such period of time as he deems to be necessary for such reason. (June 27, 1952, ch. 477, title II, ch. 5, § 243, 66 Stat. 214.)

CROSS REFERENCES

Definition of the term—

Adjacent islands, section 1101 (b) (5) of this title.

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Crewman, see section 1101 (a) (10) of this title.

Immigrant visa, see section 1101 (a) (10) of this title.

National, see section 1101 (a) (21) of this title.

Permanent, see section 1101 (a) (31) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

Peace Corps programs, deportation of foreign participants pursuant to provisions of this section, see section 2508 of Title 22, Foreign Relations and Intercourse.

§ 1254. Suspension of deportation.

(a) Adjustment of status for permanent residence; contents.

As hereinafter prescribed in this section, the Attorney General may, in his discretion, suspend deportation and adjust the status to that of an alien lawfully admitted for permanent residence, in the case of an alien who applies to the Attorney General for suspension of deportation and—

(1) is deportable under any law of the United States except the provisions specified in paragraph (2) of this subsection; has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

(2) is deportable under paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 1251 (a) of this title; has been physically present in the United States for a continuous period of not less than ten years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has

been and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

- (b) Continuous physical presence not required because of honorable service in Armed Forces and presence upon entry into service.

The requirement of continuous physical presence in the United States specified in paragraphs 1 and (2) of subsection (a) of this section shall not be applicable to an alien who (A) has served for a minimum period of twenty-four months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and (B) at the time of his enlistment or induction was in the United States.

- (c) Fulfillment of requirements of subsection (a); report to Congress.

(1) Upon application by any alien who is found by the Attorney General to meet the requirements of subsection (a) of this section the Attorney General may in his discretion suspend deportation of such alien. If the deportation of any alien is suspended under the provisions of this subsection, a complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such suspension. Such reports shall be submitted on the first day of each calendar month in which Congress is in session.

- (2) In the case of an alien specified in paragraph (1) of subsection (a) of this section—

if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of such deportation, the Attorney General shall thereupon deport such alien or authorize the alien's voluntary departure at his own expense under the order of deportation in the manner provided by law. If, within the time above specified, neither the Senate nor the House of Representatives shall pass such a resolution, the Attorney General shall cancel deportation proceedings.

- (3) In the case of an alien specified in paragraph (2) of subsection (a) of this section—

if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution stating in substance that it favors the suspension of such deportation, the Attorney General shall cancel deportation proceedings. If within the time above specified the Congress does not pass such a concurrent resolution, or if either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of the deportation of such alien, the Attorney General shall there-

upon deport such alien in the manner provided by law.

- (d) Record of cancellation of deportation.

Upon the cancellation of deportation in the case of any alien under this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date the cancellation of deportation of such alien is made, and the Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of entry and was not charged to the appropriate quota, reduce by one the quota of the quota to which the alien is chargeable under section 1152 of this title for the fiscal year then current at the time of cancellation or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.

- (e) Voluntary departure.

The Attorney General may, in his discretion, permit any alien under deportation proceedings, other than an alien within the provisions of paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 1251(a) of this title (and also any alien within the purview of such paragraphs if he is also within the provisions of paragraph (2) of subsection (a) of this section), to depart voluntarily from the United States at his own expense in lieu of deportation if such alien shall establish to the satisfaction of the Attorney General that he is, and has been, a person of good moral character for at least five years immediately preceding his application for voluntary departure under this subsection.

- (f) Application of provisions to alien crewmen; students, scholars, etc.; and natives of contiguous country or adjacent island.

No provision of this section shall be applicable to an alien who (1) entered the United States as a crewman; or (2) was admitted to the United States pursuant to section 1101(a)(5)(J) of this title or has acquired such status after admission to the United States; or (3) is a native of any country contiguous to the United States or of any adjacent island named in section 1101(b)(5) of this title: *Provided*, That the Attorney General may in his discretion agree to the granting of suspension of deportation to an alien specified in clause (3) of this subsection if such alien establishes to the satisfaction of the Attorney General that he is ineligible to obtain a nonquota immigrant visa. (June 27, 1952, ch. 477, title II, ch. 5, § 244, 66 Stat. 214; Oct. 24, 1962, Pub. L. 87-885, § 4, 76 Stat. 1247.)

AMENDMENTS

1962—Subsec. (a). Pub. L. 87-885 inserted "applies to the Attorney General for suspension of deportation and" in the introductory paragraph; substituted "except the provisions specified in paragraph (2) of this subsection" and "extreme hardship" for "and is not a member of a class of aliens whose deportation could not have been suspended by reason of section 19(d) of the Immigration Act of 1917, as amended" and "exceptional and extremely unusual hardship", respectively, and deleted "applies to the Attorney General within five years after the effective date of this chapter for suspension of deportation; last entered the United States more than two years prior to June 27, 1952" preceding "Is deportable under any law", in par. (1); redesignated former par. (5) as (2), eliminating from the former provisions "for an act committed or status acquired subsequent to such entry

into the United States or having last entered the United States within two years prior to, or at any time after June 27, 1962, is deportable under paragraph (2) of section 1251(a) of this title as a person who has remained longer in the United States than the period for which he was admitted" following "section 1251(a) of this title" and "has not been served with a final order of deportation issued pursuant to this chapter in deportation proceedings up to the time of applying to the Attorney General for suspension of deportation" following "good moral character"; and eliminated former pars. (2)—(4), which authorized the Attorney General to suspend deportation and adjust status for permanent residence of aliens deportable for act committed or status existing prior to or at time of entry into the United States, deportable for act committed or status acquired subsequent to entry, and deportable for being a criminal, prostitute, or other immoral person, subversive, violator of narcotic laws, and similar class of persons, and person who entered without inspection, at time and place other than designated by the Attorney General, or without proper documents, respectively.

Subsec. (b). Pub. L. 87-885 substituted provisions declaring the requirement of continuous physical presence in the United States inapplicable to aliens who served honorably in the Armed Forces of the United States and were in the United States at the time of entry into service for provisions respecting the fulfillment of requirements of pars. (1)—(3) of former subsec. (a) and the making of reports to Congress, now incorporated in subssecs. (c) (1), (2) and (f) of this section.

Subsec. (c) (1). Pub. L. 87-885 incorporated the first three sentences of former subssecs. (b) and (c) in par. (1), eliminating from former subsec. (b) "paragraphs (1), (2), or (3)" and from former subsec. (c) "paragraph (4) or (5)" preceding "of subsection (a) of this section" in the first sentence, and from such former subssecs. (b) and (c) the requirement respecting the submission of reports on the fifteenth day of each calendar month in the third sentence.

Subsec. (c) (2). Pub. L. 87-885 incorporated the fourth and fifth sentences of former subsec. (b) in par. (2), prefacing the provisions with the introductory phrase reading "In the case of an alien specified in paragraph (1) of subsection (a) of this section."

Subsec. (c) (3). Pub. L. 87-885 incorporated the fourth and fifth sentences of former subsec. (c) in par. (3), prefacing the provisions with the introductory phrase reading "In the case of an alien specified in paragraph (2) of subsection (a) of this section."

Subsec. (d). Pub. L. 87-885 eliminated the word "area" from the phrase "reduce by one the quota of the quota area."

Subsec. (e). Pub. L. 87-885 substituted "paragraph (2) of subsection (a)" for "paragraph (4) or (5) of subsection (a)."

Subsec. (f). Pub. L. 87-885 added subsec. (f), which incorporates the last sentence of former subsec. (b) reading "The provisions of this subsection relating to the granting of suspension of deportation shall not be applicable to any alien who is a native of any country contiguous to the United States or of any adjacent island, unless he establishes to the satisfaction of the Attorney General that he is ineligible to obtain a nonquota immigrant visa."

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Adjacent Islands, see section 1101 (b) (5) of this title.

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Child, see section 1101 (b) (1), (c) (1) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Nonquota immigrant, see section 1101 (a) (27) of this title.

Parent, see section 1101 (b) (2), (c) (1) of this title.

Person of good moral character, see section 1101 (f) of this title.

Quota Immigrant, see section 1101 (a) (32) of this title.

United States, see section 1101 (a) (38) of this title.

Spouse, see section 1101 (a) (35) of this title.

§ 1255. Adjustment of status of nonimmigrant to that of person admitted for permanent residence; record; natives of contiguous country or adjacent island.

(a) The status of an alien, other than an alien crewman, who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is approved.

(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment or status is made, and the Secretary of State shall reduce by one the quota of the quota area to which the alien is chargeable under section 1152 of this title for the fiscal year current at the time such adjustment is made.

(c) The provisions of this section shall not be applicable to any alien who is a native of any country contiguous to the United States, or of any adjacent island named in section 1101 (b) (5) of this title. (June 27, 1952, ch. 477, title II, ch. 5, § 245, 66 Stat. 217; Aug. 21, 1958, Pub. L. 85-700, § 1, 72 Stat. 699; July 14, 1960, Pub. L. 86-648, § 10, 74 Stat. 505.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-648 substituted "alien, other than an alien crewman, who was inspected and admitted or paroled into the United States" for "alien who was admitted to the United States as a bona fide nonimmigrant", deleted former cl. (3) reading "an immigrant visa was immediately available to him at the time of his application", redesignated cl. (4) as (3), and deleted the concluding sentence reading "A quota immigrant visa shall be considered immediately available for the purposes of this subsection only if the portion of the quota to which the alien is chargeable is undersubscribed by applicants registered on a consular waiting list."

1958—Pub. L. 85-700 among other changes, substituted provisions allowing adjustment of status of alien who was admitted as a bona fide nonimmigrant to that of an alien lawfully admitted for permanent residence, for provisions allowing adjustment of status of alien who was lawfully admitted as a bona fide nonimmigrant and continued to maintain that status, to that of a permanent resident either as a quota immigrant or as a nonquota immigrant claiming nonquota status as the spouse or child of a citizen under certain specified conditions, by eliminating provision terminating nonimmigrant quota status of alien who files application for adjustment of status, and by adding subsec. (c).

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Immigrant visa, see section 1101 (a) (18) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

Nonquota immigrant, see section 1101 (a) (27) of this title.

Permanent, see section 1101 (a) (31) of this title.

Quota immigrant, see section 1101 (a) (32) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1255a. Repealed. Pub. L. 87-301, § 24(a)(5), Sept. 26, 1961, 75 Stat. 657.

Section, Pub. L. 85-316, § 9, Sept. 11, 1957, 71 Stat. 641, provided for the adjustment of status of certain resident aliens to that of a person admitted for permanent residence, the recording by the Attorney General of the alien's lawful admission for permanent residence, and for granting of nonquota status to spouse and children.

EFFECTIVE DATE OF REPEAL

Section 24(b) of Pub. L. 87-31 provided that: "Paragraphs (4), (5), (6), and (7) of subsection (a) of this section [repealing this section and provisions set out as notes under section 1153 of this title, and section 1971a of Title 50, Appendix] shall take effect upon the expiration of the one hundred and eightieth day immediately following the date of enactment of this Act [Sept. 26, 1961]."

§ 1255b. Adjustment of status of certain nonimmigrants to that of persons admitted for permanent residence.

Notwithstanding any other provision of law—

(a) Application.

Any alien admitted to the United States as a nonimmigrant under the provisions of either section 1101 (a) (15) (A) (i) or (ii) or 1101 (a) (15) (G) (i) or (ii) of this title, who has failed to maintain a status under any of those provisions, may apply to the Attorney General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

(b) Record of admission.

If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien is a person of good moral character, that he is admissible for permanent residence under this chapter, and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date of the order of the Attorney General approving the application for adjustment of status is made.

(c) Report to the Congress; resolution not favoring adjustment of status; reduction of quota.

A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be submitted on the first day of each calendar month in which Congress is in session. If, during the session of the Congress at which a case is reported, or prior to the close of the session of Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the adjustment of status of such alien,

the Attorney General shall thereupon require the departure of such alien in the manner provided by law. If neither the Senate nor the House of Representatives passes such a resolution within the time above specified, the Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 1152 of this title for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.

(d) Limitations.

The number of aliens who may be granted the status of aliens lawfully admitted for permanent residence in any fiscal year, pursuant to this section, shall not exceed fifty. (Pub. L. 85-316, § 13, Sept. 11, 1957, 71 Stat. 642.)

CODIFICATION

Section was not enacted as a part of the Immigration and Nationality Act which comprises this chapter.

DEFINITIONS; APPLICABILITY OF SECTION 1101 (a) AND (b) OF THIS TITLE

Definitions contained in subsecs. (a) and (b) of section 1101 of this title as applicable to this section, see note set out under section 1201a of this title.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

Person of good moral character, see section 1101 (f) of this title.

Quota immigrant, see section 1101 (a) (32) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1256. Rescission of adjustment of status; report to Congress; effect upon naturalized citizen.

(a) If, at any time within five years after the status of a person has been adjusted under the provisions of section 1254 of this title or under section 19 (c) of the Immigration Act of February 5, 1917, to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall submit to the Congress a complete and detailed statement of the facts and pertinent provisions of law in the case. Such reports shall be submitted on the first and fifteenth day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution withdrawing suspension of deportation, the person shall thereupon be subject to all provisions of this chapter to the same extent as if the adjustment of status had not been made. If, at any time within five years after the status of a person has been otherwise adjusted under the provisions of section 1255 or 1259 of this title or any other provision of law to that of an alien lawfully admitted for permanent residence, it shall appear to

the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall rescind the action taken granting an adjustment of status to such person and cancelling deportation in the case of such person if that occurred and the person shall thereupon be subject to all provisions of this chapter to the same extent as if the adjustment of status had not been made.

(b) Any person who has become a naturalized citizen of the United States upon the basis of a record of a lawful admission for permanent residence, created as a result of an adjustment of status for which such person was not in fact eligible, and which is subsequently rescinded under subsection (a) of this section, shall be subject to the provisions of section 1451 of this title as a person whose naturalization was procured by concealment of a material fact or by willful misrepresentation. (June 27, 1952, ch. 477, title II, ch. 5, § 246, 66 Stat. 217.)

REFERENCES IN TEXT

Section 19 (c) of the Immigration Act of February 5, 1917, referred to in subsec. (a), was formerly classified to section 155 (c) of this title, was repealed by section 403 (a) (13) of act June 27, 1952 and is now covered by sections 1254 (a) (1) (2) and 1351 of this title.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

§ 1257. Adjustment of status of certain resident aliens to nonimmigrant status; exceptions.

(a) The status of an alien lawfully admitted for permanent residence shall be adjusted by the Attorney General, under such regulations as he may prescribe, to that of a nonimmigrant under paragraphs (15) (A), (E), or (G) of section 1101 (a) of this title, if such alien had at the time of entry or subsequently acquires an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under such paragraphs. As of the date of the Attorney General's order making such adjustment of status, the Attorney General shall cancel the record of the alien's admission for permanent residence, and the immigrant status of such alien shall thereby be terminated.

(b) The adjustment of status required by subsection (a) of this section shall not be applicable in the case of any alien who requests that he be permitted to retain his status as an immigrant and who, in such form as the Attorney General may require, executes and files with the Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of the acquisition of an occupational status entitling him to a nonimmigrant status under paragraphs (15) (A), (E), or (G) of section 1101 (a) of this title. (June 27, 1952, ch. 477, title II, ch. 5, § 247, 66 Stat. 218.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigrant, see section 1101 (a) (15) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

Issuance of immigrant visa to alien entitled to nonimmigrant status upon waiver of rights accruing from such status, see section 1184 of this title.

§ 1258. Change of nonimmigrant classification.

The Attorney General may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status, except an alien classified as a nonimmigrant under paragraph (15) (D) of section 1101 (a) of this title, or an alien classified as a nonimmigrant under paragraph (15) (C) or (J) of section 1101 (a) of this title, unless he applies to have his classification changed from a classification under paragraph (15) (C) or (J) to a classification under paragraph (15) (A) or (G) of section 1101 of this title. (June 27, 1952, ch. 477, title II, ch. 5, § 248, 66 Stat. 218; Sept. 21, 1961, Pub. L. 87-256, § 109(d), 75 Stat. 535.)

AMENDMENTS

1961—Pub. L. 87-256 inserted references to paragraph (15) (J) of section 1101 (a) of this title in two instances.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

§ 1259. Record of admission for permanent residence in the case of certain aliens who entered the United States prior to June 28, 1940.

A record of lawful admission for permanent residence may, in the discretion of the Attorney General and under such regulations as he may prescribe, be made in the case of any alien, as of the date of the approval of his application or, if entry occurred prior to July 1, 1924, as of the date of such entry, if no such record is otherwise available and such alien shall satisfy the Attorney General that he is not inadmissible under section 1182 (a) of this title insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens, and he establishes that he—

(a) entered the United States prior to June 28, 1940;

(b) has had his residence in the United States continuously since such entry;

(c) is a person of good moral character; and

(d) is not ineligible to citizenship.

(June 27, 1952, ch. 477, title II, ch. 5, § 249, 66 Stat. 219; Aug. 8, 1958, Pub. L. 85-616, 72 Stat. 546.)

AMENDMENTS

1958—Pub. L. 85-616 permitted record of lawful admission to be made in the case of aliens who entered the United States prior to June 28, 1940, authorized the record to be made as of the date of the approval of the application for those who entered subsequent to July 1, 1924, and prior to June 28, 1940, and substituted provisions requiring the alien to satisfy the Attorney General that he is not inadmissible under section 1182 (a) of this title

insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens for provisions which required the alien to satisfy the Attorney General that he was not subject to deportation.

CROSS REFERENCES

Definition of the term—

- Allen, see section 1101 (a) (3) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- Entry, see section 1101 (a) (13) of this title.
- Ineligible to citizenship, see section 1101 (a) (19) of this title.
- Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.
- Permanent, see section 1101 (a) (31) of this title.
- Person of good moral character, see section 1101 (f) of this title.
- Residence, see section 1101 (a) (33) of this title.
- United States, see section 1101 (a) (38) of this title.

§ 1260. Removal of aliens falling into distress.

The Attorney General may remove from the United States any alien who falls into distress or who needs public aid from causes arising subsequent to his entry, and is desirous of being so removed, to the native country of such alien, or to the country from which he came, or to the country of which he is a citizen or subject, or to any other country to which he wishes to go and which will receive him, at the expense of the appropriation for the enforcement of this chapter. Any alien so removed shall be ineligible to apply for or receive a visa or other documentation for readmission, or to apply for admission to the United States except with the prior approval of the Attorney General. (June 27, 1952, ch. 477, title II, ch. 5, § 250, 66 Stat. 219.)

CROSS REFERENCES

Definition of the term—

- Allen, see section 1101 (a) (3) of this title.
- Application for admission, see section 1101 (a) (4) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- Entry, see section 1101 (a) (13) of this title.
- United States, see section 1101 (a) (38) of this title.

PART VI.—SPECIAL PROVISIONS RELATING TO ALIEN CREWMEN

§ 1281. Alien crewmen.

(a) Arrival; submission of list; exceptions.

Upon arrival of any vessel or aircraft in the United States from any place outside the United States it shall be the duty of the owner, agent, consignee, master, or commanding officer thereof to deliver to an immigration officer at the port of arrival (1) a complete, true, and correct list containing the names of all aliens employed on such vessel or aircraft, the positions they respectively hold in the crew of the vessel or aircraft, when and where they were respectively shipped or engaged, and those to be paid off or discharged in the port of arrival; or (2) in the discretion of the Attorney General, such a list containing so much of such information, or such additional or supplemental information, as the Attorney General shall by regulations prescribe. In the case of a vessel engaged solely in traffic on the Great Lakes, Saint Lawrence River, and connecting waterways, such lists shall be furnished at such times as the Attorney General may require.

(b) Reports of illegal landings.

It shall be the duty of any owner, agent, consignee, master, or commanding officer of any vessel or aircraft to report to an immigration officer, in writing, as soon as discovered, all cases in which any alien crewman has illegally landed in the United States from the vessel or aircraft, together with a description of such alien and any information likely to lead to his apprehension.

(c) Departure; submission of list; exceptions.

Before the departure of any vessel or aircraft from any port in the United States, it shall be the duty of the owner, agent, consignee, master, or commanding officer thereof, to deliver to an immigration officer at that port (1) a list containing the names of all alien employees who were not employed thereon at the time of the arrival at that port but who will leave such port thereon at the time of the departure of such vessel or aircraft and the names of those, if any, who have been paid off or discharged, and of those, if any, who have deserted or landed at that port, or (2) in the discretion of the Attorney General, such a list containing so much of such information, or such additional or supplemental information, as the Attorney General shall by regulations prescribe. In the case of a vessel engaged solely in traffic on the Great Lakes, Saint Lawrence River, and connecting waterways, such lists shall be furnished at such times as the Attorney General may require.

(d) Violations.

In case any owner, agent, consignee, master, or commanding officer shall fail to deliver complete, true, and correct lists or reports of aliens, or to report cases of desertion or landing, as required by subsections (a)—(c) of this section, such owner, agent, consignee, master, or commanding officer, shall, if required by the Attorney General, pay to the collector of customs of any customs district in which the vessel or aircraft may at any time be found the sum of \$10 for each alien concerning whom such lists are not delivered or such reports are not made as required in the preceding subsections. No such vessel or aircraft shall be granted clearance from any port at which it arrives pending the determination of the question of the liability to the payment of such fine, and if such fine is imposed, while it remains unpaid. No such fine shall be remitted or refunded. Clearance may be granted prior to the determination of such question upon deposit of a bond or a sum sufficient to cover such fine.

(e) Regulations.

The Attorney General is authorized to prescribe by regulations the circumstances under which a vessel or aircraft shall be deemed to be arriving in, or departing from the United States or any port thereof within the meaning of any provision of this Part. (June 27, 1952, ch. 477, title II, ch. 6, § 251, 66 Stat. 219.)

CROSS REFERENCES

Definition of the term—

- Allen, see section 1101 (a) (3) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- Crewman, see section 1101 (a) (10) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1282. Conditional permits to land temporarily.

(a) Period of time.

No alien crewman shall be permitted to land temporarily in the United States except as provided in this section and sections 1182 (d) (3), (5) and 1283 of this title. If an immigration officer finds upon examination that an alien crewman is a non-immigrant under paragraph (15) (D) of section 1101 (a) of this title and is otherwise admissible and has agreed to accept such permit, he may, in his discretion, grant the crewman a conditional permit to land temporarily pursuant to regulations prescribed by the Attorney General, subject to revocation in subsequent proceedings as provided in subsection (b) of this section, and for a period of time, in any event, not to exceed—

(1) the period of time (not exceeding twenty-nine days) during which the vessel or aircraft on which he arrived remains in port, if the immigration officer is satisfied that the crewman intends to depart on the vessel or aircraft on which he arrived; or

(2) twenty-nine days, if the immigration officer is satisfied that the crewman intends to depart, within the period for which he is permitted to land, on a vessel or aircraft other than the one on which he arrived.

(b) Revocation; expenses of detention.

Pursuant to regulations prescribed by the Attorney General, any immigration officer may, in his discretion, if he determines that an alien is not a bona fide crewman, or does not intend to depart on the vessel or aircraft which brought him, revoke the conditional permit to land which was granted such crewman under the provisions of subsection (a) (1) of this section, take such crewman into custody, and require the master or commanding officer of the vessel or aircraft on which the crewman arrived to receive and detain him on board such vessel or aircraft, if practicable, and such crewman shall be deported from the United States at the expense of the transportation line which brought him to the United States. Until such alien is so deported, any expenses of his detention shall be borne by such transportation company. Nothing in this section shall be construed to require the procedure prescribed in section 1252 of this title to cases falling within the provisions of this subsection.

(c) Penalties.

Any alien crewman who willfully remains in the United States in excess of the number of days allowed in any conditional permit issued under subsection (a) of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$500 or shall be imprisoned for not more than six months, or both. (June 27, 1952, ch. 477, title II, ch. 6, § 252, 66 Stat. 220.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Crewman, see section 1101 (a) (10) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

United States, see section 1101 (a) (38) of this title.

Misdemeanor, offense punishable by imprisonment for a term not exceeding one year as, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1283. Hospital treatment of alien crewmen afflicted with certain diseases.

An alien crewman, including an alien crewman ineligible for a conditional permit to land under section 1282 (a) of this title, who is found on arrival in a port of the United States to be afflicted with any of the disabilities or diseases mentioned in section 1285 of this title, shall be placed in a hospital designated by the immigration officer in charge at the port of arrival and treated, all expenses connected therewith, including burial in the event of death, to be borne by the owner, agent, consignee, commanding officer, or master of the vessel or aircraft, and not to be deducted from the crewman's wages. No such vessel or aircraft shall be granted clearance until such expenses are paid, or their payment appropriately guaranteed, and the collector of customs is so notified by the immigration officer in charge. An alien crewman suspected of being afflicted with any such disability or disease may be removed from the vessel or aircraft on which he arrived to an immigration station, or other appropriate place, for such observation as will enable the examining surgeons to determine definitely whether or not he is so afflicted, all expenses connected therewith to be borne in the manner hereinbefore prescribed. In cases in which it appears to the satisfaction of the immigration officer in charge that it will not be possible within a reasonable time to effect a cure, the return of the alien crewman shall be enforced on, or at the expense of, the transportation line on which he came, upon such conditions as the Attorney General shall prescribe, to insure that the alien shall be properly cared for and protected, and that the spread of contagion shall be guarded against. (June 27, 1952, ch. 477, title II, ch. 6, § 253, 66 Stat. 221.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Crewman, see section 1101 (a) (10) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1284. Control of alien crewmen.

(a) Penalties for failure.

The owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft arriving in the United States from any place outside thereof who fails (1) to detain on board the vessel, or in the case of an aircraft to detain at a place specified by an immigration officer at the expense of the airline, any alien crewman employed thereon until an immigration officer has completely inspected such alien crewman, including a physical examination by the medical examiner, or (2) to detain any alien crewman on board the vessel, or in the case of an aircraft at a place specified by an immigration

officer at the expense of the airline, after such inspection unless a conditional permit to land temporarily has been granted such alien crewman under section 1282 of this title or unless an alien crewman has been permitted to land temporarily under section 1182 (d) (5) or 1283 of this title for medical or hospital treatment, or (3) to deport such alien crewman if required to do so by an immigration officer, whether such deportation requirement is imposed before or after the crewman is permitted to land temporarily under sections 1182 (d) (5), 1282, or 1283 of this title, shall pay to the collector of customs of the customs district in which the port of arrival is located or in which the failure to comply with the orders of the officer occurs the sum of \$1,000 for each alien crewman in respect to whom any such failure occurs. No such vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such fine, or while the fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs. The Attorney General may, upon application in writing therefor, mitigate such penalty to not less than \$200 for each alien crewman in respect of whom such failure occurs, upon such terms as he shall think proper.

(b) *Prima facie* evidence against transportation line.

Except as may be otherwise prescribed by regulations issued by the Attorney General, proof that an alien crewman did not appear upon the outgoing manifest of the vessel or aircraft on which he arrived in the United States from any place outside thereof, or that he was reported by the master or commanding officer of such vessel or aircraft as a deserter, shall be *prima facie* evidence of a failure to detain or deport such alien crewman.

(c) *Deportation on other than arriving vessel or aircraft; expenses.*

If the Attorney General finds that deportation of an alien crewman under this section on the vessel or aircraft on which he arrived is impracticable or impossible, or would cause undue hardship to such alien crewman, he may cause the alien crewman to be deported from the port of arrival or any other port on another vessel or aircraft of the same transportation line, unless the Attorney General finds this to be impracticable. All expenses incurred in connection with such deportation, including expenses incurred in transferring an alien crewman from one place in the United States to another under such conditions and safeguards as the Attorney General shall impose, shall be paid by the owner or owners of the vessel or aircraft on which the alien arrived in the United States. The vessel or aircraft on which the alien arrived shall not be granted clearance until such expenses have been paid or their payment guaranteed to the satisfaction of the Attorney General. An alien crewman who is transferred within the United States in accordance with this subsection shall not be regarded as having been landed in the United States. (June 27, 1952, ch. 477, title II, ch. 6, § 254, 66 Stat. 221.)

CROSS REFERENCES

Definition of the term—

- Alien, see section 1101 (a) (3) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- Crewman, see section 1101 (a) (10) of this title.
- Immigration officer, see section 1101 (a) (18) of this title.
- United States, see section 1101 (a) (38) of this title.

§ 1285. Employment on passenger vessels of aliens afflicted with certain disabilities.

It shall be unlawful for any vessel or aircraft carrying passengers between a port of the United States and a port outside thereof to have employed on board upon arrival in the United States any alien afflicted with feeble-mindedness, insanity, epilepsy, tuberculosis in any form, leprosy, or any dangerous contagious disease. If it appears to the satisfaction of the Attorney General, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel or aircraft and that the existence of such affliction might have been detected by means of a competent medical examination at such time, the owner, commanding officer, agent, consignee, or master thereof shall pay for each alien so afflicted to the collector of customs of the customs district in which the port of arrival is located the sum of \$50. No vessel or aircraft shall be granted clearance pending the determination of the question of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums or of a bond approved by the collector of customs with sufficient surety to secure the payment thereof. Any such fine may, in the discretion of the Attorney General, be mitigated or remitted. (June 27, 1952, ch. 477, title II, ch. 6, § 255, 66 Stat. 222.)

CROSS REFERENCES

Definition of the term—

- Alien, see section 1101 (a) (3) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- United States, see section 1101 (a) (38) of this title.
- Public Health Service, see chapter 6A of Title 42, The Public Health and Welfare.

§ 1286. Discharge of alien crewmen; penalties.

It shall be unlawful for any person, including the owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft, to pay off or discharge any alien crewman, except an alien lawfully admitted for permanent residence, employed on board a vessel or aircraft arriving in the United States without first having obtained the consent of the Attorney General. If it shall appear to the satisfaction of the Attorney General that any alien crewman has been paid off or discharged in the United States in violation of the provisions of this section, such owner, agent, consignee, charterer, master, commanding officer, or other person, shall pay to the collector of customs of the customs district in which the violation occurred the sum of \$1,000 for each such violation. No vessel or aircraft

shall be granted clearance pending the determination of the question of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond approved by the collector of customs with sufficient surety to secure the payment thereof. Such fine may, in the discretion of the Attorney General, be mitigated to not less than \$500 for each violation, upon such terms as he shall think proper. (June 27, 1952, ch. 477, title II, ch. 6, § 256, 66 Stat. 223.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Crewman, see section 1101 (a) (10) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

United States, see section 1101 (a) (88) of this title.

§ 1287. Alien crewmen brought in the United States with intent to evade immigration laws; penalties.

Any person, including the owner, agent, consignee, master, or commanding officer of any vessel or aircraft arriving in the United States from any place outside thereof, who shall knowingly sign on the vessel's articles, or bring to the United States as one of the crew of such vessel or aircraft, any alien, with intent to permit or assist such alien to enter or land in the United States in violation of law, or who shall falsely and knowingly represent to a consular officer at the time of application for visa, or to the immigration officer at the port of arrival in the United States, that such alien is a bona fide member of the crew employed in any capacity regularly required for normal operation and services aboard such vessel or aircraft, shall be liable to a penalty not exceeding \$5,000 for each such violation, for which sum such vessel or aircraft shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense. (June 27, 1952, ch. 477, title II, ch. 6, § 257, 66 Stat. 223.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Crewman, see section 1101 (a) (10) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigration laws, see section 1101 (a) (17) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

United States, see section 1101 (a) (38) of this title.

PART VII.—REGISTRATION OF ALIENS

§ 1301. Alien seeking entry; contents.

No visa shall be issued to any alien seeking to enter the United States until such alien has been registered and fingerprinted in accordance with section 1201 (b) of this title, unless such alien has been exempted from being fingerprinted as provided in that section. (June 27, 1952, ch. 477, title II, ch. 7, § 261, 66 Stat. 223.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Entry, see section 1101 (a) (13) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1302. Registration of aliens.

(a) It shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under section 1201 (b) of this title or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.

(b) It shall be the duty of every parent or legal guardian of any alien now or hereafter in the United States, who (1) is less than fourteen years of age, (2) has not been registered under section 1201 (b) of this title or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for the registration of such alien before the expiration of such thirty days. Whenever any alien attains his fourteenth birthday in the United States he shall, within thirty days thereafter, apply in person for registration and to be fingerprinted. (June 27, 1952, ch. 477, title II, ch. 7, § 262, 66 Stat. 224.)

REFERENCES IN TEXT

Sections 30 and 31 of the Alien Registration Act of 1940, referred to subsecs. (a) and (b), were formerly classified to sections 451 and 452 of this title and were repealed by section 403 (a) (39) of act June 27, 1952.

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

WAIVER OF FINGERPRINTING REQUIREMENTS FOR NONIMMIGRANT ALIENS

Authority of the Secretary of State and the Attorney General to waive the requirement of fingerprinting specified in this section, in the case of any nonimmigrant alien, see section 1201a of this title.

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1303. Registration of special groups.

(a) Notwithstanding the provisions of sections 1301 and 1302 of this title, the Attorney General is authorized to prescribe special regulations and forms for the registration and fingerprinting of (1) alien crewmen, (2) holders of border-crossing identification cards, (3) aliens confined in institutions within the United States, (4) aliens under order of deportation, and (5) aliens of any other class not lawfully admitted to the United States for permanent residence.

(b) The provisions of section 1302 of this title and of this section shall not be applicable to any alien who is in the United States as a nonimmigrant under section 1101 (a) (15) (A) or (a) (15) (G) of this title until the alien ceases to be entitled to such a nonimmigrant status. (June 27, 1952, ch. 477, title II, ch. 7, § 263, 66 Stat. 224.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Border crossing identification card, see section 1101 (a) (6) of this title.
 Crewman, see section 1101 (a) (10) of this title.
 Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.
 Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

§ 1304. Forms for registration and fingerprinting.

(a) Preparation; contents.

The Attorney General and the Secretary of State jointly are authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 1301 of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 1302 of this title. Such forms shall contain inquiries with respect to (1) the date and place of entry of the alien into the United States; (2) activities in which he has been and intends to be engaged; (3) the length of time he expects to remain in the United States; (4) the police and criminal record, if any, of such alien; and (5) such additional matters as may be prescribed.

(b) Confidential nature.

All registration and fingerprint records made under the provisions of this subchapter shall be confidential, and shall be made available only to such persons or agencies as may be designated by the Attorney General.

(c) Information under oath.

Every person required to apply for the registration of himself or another under this subchapter shall submit under oath the information required for such registration. Any person authorized under regulations issued by the Attorney General to register aliens under this subchapter shall be authorized to administer oaths for such purpose.

(d) Certificate of alien registration or alien receipt card.

Every alien in the United States who has been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, or under the provisions of this chapter shall be issued a certificate of alien registration or an alien registration receipt card in such form and manner and at such time as shall be prescribed under regulations issued by the Attorney General.

(e) Same; personal possession; penalties.

Every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d) of this section. Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed \$100 or be imprisoned not more than thirty days, or both. (June 27, 1952, ch. 477, title II, ch. 7, § 264, 66 Stat. 224.)

REFERENCES IN TEXT

The Alien Registration Act of 1940, referred to in subsec. (d), was formerly classified to sections 451 and 460 of this title, and was repealed by section 403 (a) (39) of act June 27, 1952.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.
 Attorney General, see section 1101 (a) (5) of this title.
 Entry, see section 1101 (a) (13) of this title.
 United States, see section 1101 (a) (38) of this title.
 Misdemeanor, offense punishable by imprisonment for a term not exceeding one year as, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1305. Change of address.

Every alien required to be registered under this subchapter, or who was required to be registered under the Alien Registration Act, 1940, as amended, who is within the United States on the first day of January following the effective date of this chapter, or on the first day of January of each succeeding year shall, within thirty days following such dates, notify the Attorney General in writing of his current address and furnish such additional information as may be required by the Attorney General. Any such alien shall likewise notify the Attorney General in writing of each change of address and new address within ten days from the date of such change. Any such alien who is temporarily absent from the United States on the first day of January following the effective date of this chapter, or on the first day of January of any succeeding year shall furnish his current address and other information as required by this section within ten days after his return. Any such alien in the United States in a lawful temporary residence status shall in like manner also notify the Attorney General in writing of his address at the expiration of each three-month period during which he remains in the United States regardless of whether there has been any change of address. In the case of an alien for whom a parent or legal guardian is required to apply for registration, the notice required by this section shall be given by such parent or legal guardian. (June 27, 1952, ch. 477, title II, ch. 7, § 265, 66 Stat. 225.)

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.
 Attorney General, see section 1101 (a) (5) of this title.
 Parent, see section 1101 (b) (2), (e) (2) of this title.
 Residence, see section 1101 (a) (33) of this title.
 United States, see section 1101 (a) (38) of this title.

§ 1306. Penalties.

(a) Willful failure to register.

Any alien required to apply for registration and to be fingerprinted in the United States who willfully fails or refuses to make such application or to be fingerprinted, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000 or be imprisoned not more than six months, or both.

(b) Failure to notify change of address.

Any alien or any parent or legal guardian in the United States of any alien who fails to give written notice to the Attorney General, as required by section 1305 of this title, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$200 or be imprisoned not more than thirty days, or both. Irrespective of whether an alien is convicted and punished as herein provided, any alien who fails to give written notice to the Attorney General, as required by section 1305 of this title, shall be taken into custody and deported in the manner provided by Part 5 of this subchapter, unless such alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

(c) Fraudulent statements.

Any alien or any parent or legal guardian of any alien, who files an application for registration containing statements known by him to be false, or who procures or attempts to procure registration of himself or another person through fraud, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000, or be imprisoned not more than six months, or both; and any alien so convicted shall, upon the warrant of the Attorney General, be taken into custody and be deported in the manner provided in Part 5 of this subchapter.

(d) Counterfeiting.

Any person who with unlawful intent photographs, prints, or in any other manner makes, or executes, any engraving, photograph, print, or impression in the likeness of any certificate of alien registration or an alien registration receipt card or any colorable imitation thereof, except when and as authorized under such rules and regulations as may be prescribed by the Attorney General, shall upon conviction be fined not to exceed \$5,000 or be imprisoned not more than five years, or both. (June 27, 1952, ch. 477, title II, ch. 7, § 266, 66 Stat. 225.)

CROSS REFERENCES**Definition of the term—**

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

United States, see section 1101 (a) (38) of this title.

PART VIII.—GENERAL PENALTY PROVISIONS**§ 1321. Prevention of unauthorized landing of aliens; failure to report; penalties; prima facie evidence.**

(a) It shall be the duty of every person, including the owners, masters, officers, and agents of vessels, aircraft, transportation lines, or international bridges or toll roads, other than transportation lines which may enter into a contract as provided in section 1228 of this title, bringing an alien to, or providing a means for an alien to come to, the United States (including an alien crewman whose case is not covered by section 1284 (a) of this title) to prevent the landing of such alien in the United States at a port of entry other than as designated by the Attorney General or at any time or place other than as designated by the immigration officers. Any such person, owner, master, officer, or agent who fails to comply with the foregoing re-

quirements shall be liable to a penalty to be imposed by the Attorney General of \$1,000 for each such violation, which may, in the discretion of the Attorney General, be remitted or mitigated by him in accordance with such proceedings as he shall by regulation prescribe. Such penalty shall be a lien upon the vessel or aircraft whose owner, master, officer, or agent violates the provisions of this section, and such vessel or aircraft may be libeled therefor in the appropriate United States court.

(b) Proof that the alien failed to present himself at the time and place designated by the immigration officers shall be prima facie evidence that such alien has landed in the United States at a time or place other than as designated by the immigration officers. (June 27, 1952, ch. 477, title II, ch. 8, § 271, 66 Stat. 226.)

CROSS REFERENCES**Definition of the term—**

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Crewman, see section 1101 (a) (10) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1322. Bringing in aliens subject to disability or afflicted with disease; persons liable; clearance papers; exceptions; definition.

(a) Any person who shall bring to the United States an alien (other than an alien crewman) who is (1) feeble-minded, (2) insane, (3) an epileptic, (4) afflicted with psychopathic personality, (5) a chronic alcoholic, (6) afflicted with tuberculosis in any form, (7) afflicted with leprosy or any dangerous contagious disease, or (8) a narcotic drug addict, shall pay to the collector of customs of the customs district in which the place of arrival is located for each and every alien so afflicted, the sum of \$1,000 unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien was in possession of a valid unexpired non-immigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if such person establishes to the satisfaction of the Attorney General that the existence of such disease or disability could not have been detected by the exercise of due diligence prior to the alien's embarkation.

(b) Any person who shall bring to the United States an alien (other than an alien crewman) afflicted with any mental defect other than those enumerated in subsection (a) of this section, or any physical defect of a nature which may affect his ability to earn a living, as provided in section 1182 (a) (7) of this title, shall pay to the collector of

customs of the customs district in which the place of arrival is located for each and every alien so afflicted, the sum of \$250, unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien was in possession of a valid unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if such person establishes to the satisfaction of the Attorney General that the existence of such disease or disability could not have been detected by the exercise of due diligence prior to the alien's embarkation.

(c) No vessel or aircraft shall be granted clearance papers pending determination of the question of liability to the payment of any fine under this section, or while the fines remain unpaid, nor shall such fines be remitted or refunded; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fines or of a bond with sufficient surety to secure the payment thereof, approved by the collector of customs.

(d) Nothing contained in this section shall be construed to subject transportation companies to a fine for bringing to ports of entry in the United States aliens who are entitled by law to exemption from the excluding provisions of section 1182 (a) of this title.

(e) As used in this section, the term "person" means the owner, master, agent, commanding officer, charterer, or consignee of any vessel or aircraft. (June 27, 1952, ch. 477, title II, ch. 8, § 272, 66 Stat. 226.)

CROSS REFERENCES

Definition of the term—

- Alien, see section 1101 (a) (3) of this title.
- Attorney General, see section 1101 (a) (5) of this title.
- Crewman, see section 1101 (a) (10) of this title.
- Entry, see section 1101 (a) (13) of this title.
- Immigrant visa, see section 1101 (a) (16) of this title.
- Nonimmigrant, visa, see section 1101 (a) (26) of this title.
- Person, see section 1101 (b) (3) of this title.
- Service, see section 1101 (a) (34) of this title.
- United States, see section 1101 (a) (38) of this title.
- Reentry permit, see section 1203 of this title.

§ 1323. Unlawful bringing of aliens into United States.

(a) Persons liable.

It shall be unlawful for any person, including any transportation company, or the owner, master, commanding officer, agent, charterer, or consignee of any vessel or aircraft, to bring to the United States from any place outside thereof (other than

from foreign contiguous territory) any alien who does not have an unexpired visa, if a visa was required under this chapter or regulations issued thereunder.

(b) Evidence.

If it appears to the satisfaction of the Attorney General that any alien has been so brought, such person, or transportation company, or the master, commanding officer, agent, owner, charterer, or consignee of any such vessel or aircraft, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of \$1,000 for each alien so brought and, except in the case of any such alien who is admitted, or permitted to land temporarily, in addition, a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter sum to be delivered by the collector of customs to the alien on whose account the assessment is made. No vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such sums or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs.

(c) Remission or refund.

Such sums shall not be remitted or refunded, unless it appears to the satisfaction of the Attorney General that such person, and the owner, master, commanding officer, agent, charterer, and consignee of the vessel or aircraft, prior to the departure of the vessel or aircraft from the last port outside the United States, did not know, and could not have ascertained by the exercise of reasonable diligence, that the individual transported was an alien and that a visa was required.

(d) Alien stowaways.

The owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside thereof who fails to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer, or who fails to detain such stowaway on board or at such other designated place after inspection if ordered to do so by an immigration officer, or who fails to deport such stowaway on the vessel or aircraft on which he arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which he arrived when required to do so by an immigration officer, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of \$1,000 for each alien stowaway, in respect of whom any such failure occurs. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance, except that clearance may be granted upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs. The provisions of section 1225 of this title for detention of aliens for

examination before special inquiry officers and the right of appeal provided for in section 1226 of this title shall not apply to aliens who arrive as stowaways and no such alien shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the ultimate departure or removal or deportation of such alien from the United States. (June 27, 1952, ch. 477, title II, ch. 8, § 273, 66 Stat. 227.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.
 Attorney General, see section 1101 (a) (5) of this title.
 Immigration officer, see section 1101 (a) (18) of this title.
 United States, see section 1101 (a) (38) of this title.
 Funds collected to be held in trust, see section 725s (6) of Title 31, Money and Finance.
 Revocation of visas or documents, notice prior to alien's embarkation as prerequisite to imposition of penalty, see section 1201 (i) of this title.
 Stowaways on vessels and aircraft, penalties generally, see section 2199 of Title 18, Crimes and Criminal Procedure.

§ 1321. Bringing in and harboring certain aliens; persons liable; authority to arrest.

(a) Any person, including the owner, operator, pilot, master, commanding officer, agent, or consignee of any means of transportation who—

(1) brings into or lands in the United States, by any means of transportation or otherwise, or attempts, by himself or through another, to bring into or land in the United States, by any means of transportation or otherwise;

(2) knowing that he is in the United States in violation of law, and knowing or having reasonable grounds to believe that his last entry into the United States occurred less than three years prior thereto, transports, or moves, or attempts to transport or move, within the United States by means of transportation or otherwise, in furtherance of such violation of law;

(3) willfully or knowingly conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, in any place, including any building or any means of transportation; or

(4) willfully or knowingly encourages or induces, or attempts to encourage or induce, either directly or indirectly, the entry into the United States of—

any alien, including an alien crewman, not duly admitted by an immigration officer or not lawfully entitled to enter or reside within the United States under the terms of this chapter or any other law relating to the immigration or expulsion of aliens, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding \$2,000 or by imprisonment for a term not exceeding five years, or both, for each alien in respect to whom any violation of this subsection occurs: *Provided, however,* That for the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring.

(b) No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws. (June 27, 1952, ch. 477, title II, ch. 8, § 274, 66 Stat. 228.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.
 Attorney General, see section 1101 (a) (5) of this title.
 Crewman, see section 1101 (a) (10) of this title.
 Entry, see section 1101 (a) (13) of this title.
 Immigration officer, see section 1101 (a) (18) of this title.
 Residence, see section 1101 (a) (33) of this title.
 Service, see section 1101 (a) (34) of this title.
 United States, see section 1101 (a) (38) of this title.
 Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1325. Entry of alien at improper time or place; misrepresentation and concealment of facts.

Any alien who (1) enters the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offenses, be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment for not more than six months, or by a fine of not more than \$500, or by both, and for a subsequent commission of any such offenses shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than two years, or by a fine of not more than \$1,000, or both. (June 27, 1952, ch. 477, title II, ch. 8, § 275, 66 Stat. 229.)

CROSS REFERENCES

Definitions—

Entry, see section 1101 (a) (13) of this title.
 Immigration officer, see section 1101 (a) (18) of this title.
 United States, see section 1101 (a) (38) of this title.
 Offenses classified, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1326. Reentry of deported alien.

Any alien who—

(1) has been arrested and deported or excluded and deported, and thereafter

(2) enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously excluded and deported, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act, shall be guilty of a felony, and upon conviction thereof, be punished by imprisonment of not more than two years, or by a fine of not more than \$1,000, or both. (June 27, 1952, ch. 477, title II, ch. 8, § 276, 66 Stat. 229.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Entry, see section 1101 (a) (13) of this title.

United States, see section 1101 (a) (38) of this title.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1327. Aiding or assisting subversive alien to enter.

Any person who knowingly aids or assists any alien excludable under section 1182 (a) (27), (28), or (29) of this title to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to enter the United States, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than five years, or both. (June 27, 1952, ch. 477, title II, ch. 8, § 277, 66 Stat. 229.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Entry, see section 1101 (a) (13) of this title.

United States, see section 1101 (a) (38) of this title.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1328. Importation of alien for immoral purpose.

The importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is forbidden. Whoever shall, directly or indirectly, import, or attempt to import into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall, in every such case, be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than \$5,000 and by imprisonment for a term of not more than ten years. The trial and punishment of offenses under this section may be in any district to or into which such alien is brought in pursuance of importation by the person or persons accused, or in any district in which a violation of any of the provisions of this section occurs. In all prosecutions under this section, the testimony of a husband or wife shall be admissible and competent evidence against each other. (June 27, 1952, ch. 477, title II, ch. 8, § 278, 66 Stat. 230.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

United States, see section 1101 (a) (38) of this title.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1329. Jurisdiction of district courts.

The district courts of the United States shall have jurisdiction of all causes, civil and criminal, arising under any of the provisions of this subchapter. It shall be the duty of the United States attorney of

the proper district to prosecute every such suit when brought by the United States. Notwithstanding any other law, such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with a violation under sections 1325 or 1326 of this title may be apprehended. No suit or proceeding for a violation of any of the provisions of this subchapter shall be settled, compromised, or discontinued without the consent of the court in which it is pending and any such settlement, compromise, or discontinuance shall be entered of record with the reasons therefor. (June 27, 1952, ch. 477, title II, ch. 8, § 279, 66 Stat. 230.)

CROSS REFERENCES

Jurisdiction of all offenses against the laws of the United States, see section 3231 of Title 18, Crimes and Criminal Procedure.

United States defined, see section 1101 (a) (38) of this title.

§ 1330. Collection of penalties and expenses.

Notwithstanding any other provisions of this subchapter, the withholding or denial of clearance of or a lien upon any vessel or aircraft provided for in sections 1221, 1227, 1229, 1253, 1281, 1283—1286 and 1321—1323 of this title shall not be regarded as the sole and exclusive means or remedy for the enforcement of payments of any fine, penalty or expenses imposed or incurred under such sections, but, in the discretion of the Attorney General, the amount thereof may be recovered by civil suit, in the name of the United States, from any person made liable under any of such sections. (June 27, 1952, ch. 477, title II, ch. 8, § 280, 66 Stat. 230.)

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

United States, see section 1101 (a) (38) of this title.

PART IX.—MISCELLANEOUS

§ 1351. Schedule of fees.

The following fees shall be charged:¹

(1) For the furnishing and verification of each application for an immigrant visa (which shall include the furnishing and verification of the duplicate), \$5;

(2) For the issuance of each immigrant visa, \$20;

(3) For the issuance of each extension of a re-entry permit, \$10;

(4) For the filing of each application for adjustment of status under sections 1255 and 1258 of this title, for the creation of a record of admission for permanent residence under section 1259 of this title or for suspension of deportation, \$25;

(5) For the issuance of each extension of stay to nonimmigrants, other than nonimmigrants described in section 1101 (a) (15) (F) of this title and, upon a basis of reciprocity, the nonimmigrants described in section 1101 (a) (15) (A) (iii) or 1101 (a) (15) (G) (v) of this title, \$10;

¹ So in original. Probably should read with subsection "(a)" and "(b)" designation.

(6) For filing with the Attorney General of each petition under sections 1154 (b), 1155 (b), and 1184 (c) of this title, \$10; and

(7) For approval of each application for, including issuance of each certificate of, admission to practice as attorney or representative before the Service, pursuant to such regulations as may be prescribed by the Attorney General, \$25.

The fees for the furnishing and verification of applications for visas by nonimmigrants of each foreign country and for the issuance of visas to nonimmigrants of each foreign country shall be prescribed by the Secretary of State in amounts corresponding, as nearly as practicable, to the total of all similar visa, entry, residence, or other fees, taxes, or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents: *Provided*, That nonimmigrant visas issued to aliens coming to the United States in transit to and from the headquarters district of the United Nations in accordance with the provisions of the Headquarters Agreement shall be gratis. (June 27, 1952, ch. 477, title II, ch. 9, § 281, 66 Stat. 230.)

REFERENCES IN TEXT

The Headquarters Agreement, referred to in the text, is set out as a note under section 287 of Title 22, Foreign Relations and Intercourse.

AGREEMENTS ON PASSPORT VISA FEES

The United States has entered into various bilateral agreements with foreign countries reciprocally waiving or reducing passport fees for non-immigrants.

Country	Date signed	Entered into force	Citation
Albania.....	May 7, 1926.....	June 1, 1926	
Argentina.....	April 15, 1912.....	June 1, 1912	56 Stat. 1578.
Australia.....	Feb. 10, 1950.....	Feb. 10, 1950	1 UST 457.
Austria.....	June 10, 28, July 12, 1919.....	July 12, 1919	63 Stat. 2730.
Belgium.....	Mar. 27, 1940.....	Feb. 17, 1947	61 Stat. 4117.
Brazil.....	Dec. 17, 1937.....	Jan. 1, 1938	186 LNTS 413.
Chile.....	Aug. 29, 1950.....	Sept. 1, 1950	1 UST 719.
China.....	Feb. 29, 1956.....	Apr. 1, 1956	TIAS 3539.
Colombia.....	Dec. 19, 1930.....	Mar. 10, 1931	
Costa Rica.....	June 29, 1925.....	July 25, 1925	
Czechoslovakia.....	Dec. 22, 1931.....	Feb. 1, 1932	
Denmark.....	July 2, 1925.....	Aug. 6, 1925	
Ecuador.....	June 9, 1947.....	July 8, 1947	
Egypt.....	July 2, 4, 1936.....	July 20, 1936	62 Stat. 4068.
El Salvador.....	Aug. 15, 1933.....	Oct. 21, 1933	
Estonia.....	Dec. 7, 15, 1953.....	Jan. 14, 1954	5 UST 859.
Finland.....	Apr. 8, 1925.....	July 28, 1925	
France.....	Oct. 22, 1925.....	Dec. 7, 1925	
Germany.....	Aug. 19, 1917.....	Sept. 16, 1917	61 Stat. 3776.
	Dec. 12, 30, 1952, Jan. 9, 1953.....	Feb. 1, 1953	4 UST 156
Greece.....	Jan. 7, 29, 1919.....	Jan. 29, 1919	63 Stat. 2005.
Guatemala.....	June 10, 1925.....	June 10, 1925	
Honduras.....	May 30, 1956.....	May 30, 1956	TIAS 3589.
Iceland.....	May 20, 27, 1925.....	June 1, 1925	
	Nov. 3, 1925.....	June 21, 1926	
India.....	June 4, 1956.....	June 4, 1956	TIAS 3584.
Indonesia.....	July 19, 1948.....	Aug. 11, 1948	5 UST 193.
Iran.....	Jan. 21, 1946.....	Mar. 13, 1946	61 Stat. 3831.
Iraq.....	Mar. 27, 1926.....	Apr. 21, 1926	
	Feb. 27, 1939.....	Feb. 27, 1939	
Ireland.....	June 6, 1956.....	June 6, 1956	TIAS 3587.
Israel.....	Aug. 1, 1949.....	Aug. 1, 1949	63 Stat. 2807.
	Mar. 27, 1951.....	June 1, 1951	3 UST 4706.
	Mar. 2, 1955.....	Oct. 28, 1917	TIAS 3611.
Italy.....	Sept. 28, 1918.....	Sept. 29, 1918	62 Stat. 3480.
Japan.....	May 21, 1952.....	Sept. 18, 1952	5 UST 363.
Latvia.....	Feb. 18, 1935.....	Mar. 27, 1935	
Liberia.....	Aug. 31, 1925.....	Aug. 31, 1925	
	Oct. 27, 28, 1947.....	Oct. 28, 1947	62 Stat. 3930.
Liechtenstein.....	Oct. 22, 1947.....	Nov. 13, 1947	TIAS 3472.
Lithuania.....	Apr. 17, 1937.....	Apr. 17, 1937	
Luxembourg.....	Apr. 25, 1936.....	May 26, 1936	
Mexico.....	Oct. 28, 1953.....	Nov. 12, 1953	5 UST 174.
Monaco.....	Mar. 31, 1952.....	Mar. 21, 1952	3 UST 3912.
Morocco.....	Mar. 10, 1919.....	Mar. 31, 1919	63 Stat. 2737.
Netherlands.....	Jan. 21, 1916.....	Apr. 15, 1916	61 Stat. 3834, 3838.
New Zealand.....	Mar. 14, 1949.....	Apr. 11, 1949	63 Stat. 2538.
Nicaragua.....	July 10, 1925.....	July 18, 1925	
Norway.....	July 7, 1947.....	July 29, 1947	61 Stat. 3101.

Country	Date signed	Entered into force	Citation
Pakistan.....	Oct. 10, 1949.....	Oct. 18, 1949	3 UST 365.
Panama.....	May 11, 13, 1925.....	May 13, 1925	
	May 22, 25, 1956.....	June 1, 1956	TIAS 3573.
Peru.....	May 20, 1929.....	July 2, 1929	
Philippines.....	Nov. 21, 1952.....	Nov. 24, 1952	3 UST 5196.
Portugal.....	Feb. 22, 1950.....	Apr. 1, 1950	1 UST 461.
Rumania.....	Aug. 25, 1939.....	Sept. 1, 1939	54 Stat. 2187.
Spain.....	Jan. 21, 1952.....	Jan. 21, 1952	3 UST 2927.
Sweden.....	Apr. 10, 1917.....	Apr. 30, 1917	61 Stat. 4050.
Switzerland.....	Oct. 22, 1947.....	Nov. 13, 1947	TIAS 3172.
Thailand.....	Sept. 19, 1925.....	Sept. 19, 1925	
Tunis.....	Mar. 16, 1949.....	Mar. 31, 1949	63 Stat. 2737.
Turkey.....	Oct. 11, 1955.....	Oct. 11, 1955	TIAS 3508.
Union of South Africa.....	Mar. 21, 1937.....	Apr. 1, 1937	189 LNTS 113.
	Apr. 3, 1956.....	May 1, 1956	
United Kingdom.....	Nov. 9, 12, 1918.....	Nov. 12, 1918	62 Stat. 3821.
Uruguay.....	Nov. 3, 5, 1949.....	Nov. 10, 1949	64 Stat. B 122.
Venezuela.....	Jan. 5, 12, 1937.....	Jan. 12, 1937	
Yugoslavia.....	Dec. 24, 1925.....	Feb. 1, 1925	
	Mar. 23, 25, 1950.....	Mar. 25, 1950	1 UST 471.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

National of the United States, see section 1101 (a) (22) of this title.

National, see section 1101 (a) (21) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

Nonimmigrant visa, see section 1101 (a) (26) of this title.

Residence, see section 1101 (a) (33) of this title.

Service, see section 1101 (a) (34) of this title.

Reentry permit, see section 1203 of this title.

§ 1352. Printing of reentry permits and blank forms of manifest and crew lists; sale to public.

(a) Reentry permits issued under section 1203 of this title shall be printed on distinctive safety paper and shall be prepared and issued under regulations prescribed by the Attorney General.

(b) The Public Printer is authorized to print for sale to the public by the Superintendent of Documents, upon prepayment, copies of blank forms of manifests and crew lists and such other forms as may be prescribed and authorized by the Attorney General to be sold pursuant to the provisions of this subchapter. (June 27, 1952, ch. 477, title II, ch. 9, § 282, 66 Stat. 231.)

CROSS REFERENCES

Definition of the term Attorney General, see section 1101 (a) (5) of this title.

§ 1353. Travel expenses and expense of transporting remains of officers and employees dying outside of United States.

When officers, inspectors, or other employees of the Service are ordered to perform duties in a foreign country, or are transferred from one station to another, in the United States or in a foreign country, or while performing duties in any foreign country become eligible for voluntary retirement and return to the United States, they shall be allowed their traveling expenses in accordance with such regulations as the Attorney General may deem advisable, and they may also be allowed, within the discretion and under written orders of the Attorney General, the expenses incurred for the transfer of their wives and dependent children, their household effects and other personal property, including the

expenses for packing, crating, freight, unpacking, temporary storage, and drayage thereof in accordance with section 73b-1 of Title 5. The expense of transporting the remains of such officers, inspectors, or other employees who die while in, or in transit to, a foreign country in the discharge of their official duties, to their former homes in this country for interment, and the ordinary and necessary expenses of such interment and of preparation for shipment, are authorized to be paid on the written order of the Attorney General. (June 27, 1952, ch. 477, title II, ch. 8, § 283, 66 Stat. 231.)

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1351. Applicability to members of the armed forces.

Nothing contained in this subchapter shall be construed so as to limit, restrict, deny, or affect the coming into or departure from the United States of an alien member of the Armed Forces of the United States who is in the uniform of, or who bears documents identifying him as a member of, such Armed Forces, and who is coming to or departing from the United States under official orders or permit of such Armed Forces: *Provided*, That nothing contained in this section shall be construed to give to or confer upon any such alien any other privileges, rights, benefits, exemptions, or immunities under this chapter, which are not otherwise specifically granted by this chapter. (June 27, 1952, ch. 477, title II, ch. 9, § 284, 66 Stat. 232.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1355. Disposal of privileges at immigrant stations; rentals; retail sale; disposition of receipts.

(a) Subject to such conditions and limitations as the Attorney General shall prescribe, all exclusive privileges of exchanging money, transporting passengers or baggage, keeping eating houses, or other like privileges in connection with any United States immigrant station, shall be disposed of to the lowest responsible and capable bidder (other than an alien) in accordance with the provisions of section 5 of Title 41 and for the use of Government property in connection with the exercise of such exclusive privileges a reasonable rental may be charged. The feeding of aliens, or the furnishing of any other necessary service in connection with any United States immigrant station, may be performed by the Service without regard to the foregoing provisions of this subsection if the Attorney General shall find that it would be advantageous to the Government in terms of economy and efficiency. No intoxicating liquors shall be sold at any immigrant station.

(b) Such articles determined by the Attorney General to be necessary to the health and welfare of aliens detained at any immigrant station, when not otherwise readily procurable by such aliens, may be sold at reasonable prices to such aliens through Government canteens operated by the

Service, under such conditions and limitations as the Attorney General shall prescribe.

(c) All rentals or other receipts accruing from the disposal of privileges, and all moneys arising from the sale of articles through Service-operated canteens, authorized by this section, shall be covered into the Treasury to the credit of the appropriation for the enforcement of this subchapter. (June 27, 1952, ch. 477, title II, ch. 9, § 285, 66 Stat. 232.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1356. Disposition of monies collected under the provisions of this subchapter.

(a) All moneys paid into the Treasury to reimburse the Service for detention, transportation, hospitalization, and all other expenses of detained aliens paid from the appropriation for the enforcement of this chapter, and all moneys paid into the Treasury to reimburse the Service for expenses of landing stations referred to in section 1228 (c) of this title paid by the Service from the appropriation for the enforcement of this chapter, shall be credited to the appropriation for the enforcement of this chapter for the fiscal year in which the expenses were incurred.

(b) Except as otherwise provided in subsection (a) of this section, or in any other provision of this subchapter, all moneys received in payment of fees and administrative fines and penalties under this subchapter shall be covered into the Treasury as miscellaneous receipts: *Provided, however*, That all fees received from applicants residing in the Virgin Islands of the United States, and in Guam, required to be paid under section 1351 of this title, shall be paid over to the Treasury of the Virgin Islands and to the Treasury of Guam, respectively. (June 27, 1952, ch. 477, title II, ch. 9, § 286, 66 Stat. 232.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Service, see section 1101 (a) (34) of this title.

§ 1357. Powers of immigration officers and employees.

(a) Powers without warrant.

Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or expulsion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having

authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States; and

(4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States. Any such employee shall also have the power to execute any warrant or other process issued by any officer under any law regulating the admission, exclusion, or expulsion of aliens.

(b) Administration of oath; taking of evidence.

Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this chapter and the administration of the Service; and any person to whom such oath has been administered, under the provisions of this chapter, who shall knowingly or willfully give false evidence or swear to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621 of Title 18.

(c) Search without warrant.

Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for exclusion from the United States under this chapter which would be disclosed by such search. (June 27, 1952, ch. 477, title II, ch. 9, § 287, 66 Stat. 233.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigration officer, see section 1101 (a) (18) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

Felony classified as an offense punishable by death or imprisonment for a term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 1358. Local jurisdiction over immigrant stations.

The officers in charge of the various immigrant stations shall admit therein the proper State and local officers charged with the enforcement of the laws of the State or Territory of the United States in which any such immigrant station is located in order that such State and local officers may preserve the peace and make arrests for crimes under the laws of the States and Territories. For the purpose of this section the jurisdiction of such State and local officers and of the State and local courts shall extend over such immigrant stations. (June 27, 1952, ch. 477, title II, ch. 9, § 288, 66 Stat. 234.)

§ 1359. Application to American Indians born in Canada.

Nothing in this subchapter shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race. (June 27, 1952, ch. 477, title II, ch. 9, § 289, 66 Stat. 234.)

§ 1360. Establishment of central file; information from other departments and agencies.

(a) There shall be established in the office of the Commissioner, for the use of security and enforcement agencies of the Government of the United States, a central index, which shall contain the names of all aliens heretofore admitted to the United States, or excluded therefrom, insofar as such information is available from the existing records of the Service, and the names of all aliens hereafter admitted to the United States, or excluded therefrom, the names of their sponsors of record, if any, and such other relevant information as the Attorney General shall require as an aid to the proper enforcement of this chapter.

(b) Any information in any records kept by any department or agency of the Government as to the identity and location of aliens in the United States shall be made available to the Service upon request made by the Attorney General to the head of any such department or agency.

(c) The Secretary of Health, Education, and Welfare shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Secretary shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.

(d) A written certification signed by the Attorney General or by any officer of the Service designated by the Attorney General to make such certification, that after diligent search no record or entry of a specified nature is found to exist in the records of the Service, shall be admissible as evidence in any proceeding as evidence that the records of the Service contain no such record or entry, and shall have the same effect as the testimony of a witness given

in open court. (June 27, 1952, ch. 477, title II, ch. 9, § 290, 66 Stat. 234; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F. R. 2053, 67 Stat. 631.)

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by section 5 of 1953 Reorg. Plan No. 1, set out as a note under section 623 of Title 5, Executive Departments and Government Officers and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of said 1953 Reorg. Plan No. 1.

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Commissioner, see section 1101 (a) (8) of this title.

Entry, see section 1101 (a) (13) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1361. Burden of proof upon alien.

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this chapter, and, if an alien, that he is entitled to the nonimmigrant, quota immigrant, or nonquota immigrant status claimed, as the case may be. If such person fails to establish to the satisfaction of the consular officer that he is eligible to receive a visa or other document required for entry, no visa or other document required for entry shall be issued to such person, nor shall such person be admitted to the United States unless he establishes to the satisfaction of the Attorney General that he is not subject to exclusion under any provision of this chapter. In any deportation proceeding under Part 5 of this subchapter against any person, the burden of proof shall be upon such person to show the time, place, and manner of his entry into the United States, but in presenting such proof he shall be entitled to the production of his visa or other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry in the custody of the Service. If such burden of proof is not sustained, such person shall be presumed to be in the United States in violation of law. (June 27, 1952, ch. 477, title II, ch. 9, § 291, 66 Stat. 234.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Entry, see section 1101 (a) (13) of this title.

Nonimmigrant alien, see section 1101 (a) (15) (A—I) of this title.

Nonquota immigrant, see section 1101 (a) (27) of this title.

Quota immigrant, see section 1101 (a) (32) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1362. Right to counsel.

In any exclusion or deportation proceedings before a special inquiry officer and in any appeal proceedings before the Attorney General from any such exclusion or deportation proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose. (June 27, 1952, ch. 477, title II, ch. 9, § 292, 66 Stat. 235.)

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Special inquiry officer, see section 1101 (b) (4) of this title.

SUBCHAPTER III.—NATIONALITY AND NATURALIZATION

PART I.—NATIONALITY AT BIRTH AND COLLECTIVE NATURALIZATION

§ 1401. Nationals and citizens of United States at birth.

(a) The following shall be nationals and citizens of the United States at birth:

(1) a person born in the United States, and subject to the jurisdiction thereof;

(2) a person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe. *Provided*, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;

(3) a person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person;

(4) a person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;

(5) a person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person;

(6) a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States;

(7) a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for

a period or periods totaling not less than ten years, at least five of which were after attaining the age of fourteen years: *Provided*, That any periods of honorable service in the Armed Forces of the United States by such citizen parent may be included in computing the physical presence requirements of this paragraph.

(b) Any person who is a national and citizen of the United States at birth under paragraph (7) of subsection (a) of this section, shall lose his nationality and citizenship unless he shall come to the United States prior to attaining the age of twenty-three years and shall immediately following any such coming be continuously physically present in the United State¹ for at least five years: *Provided*, That such physical presence follows the attainment of the age of fourteen years and precedes the age of twenty-eight years.

(c) Subsection (b) of this section shall apply to a person born abroad subsequent to May 24, 1934: *Provided, however*, That nothing contained in this subsection shall be construed to alter or affect the citizenship of any person born abroad subsequent to May 24, 1934, who, prior to the effective date of this chapter, has taken up a residence in the United States before attaining the age of sixteen years, and thereafter, whether before or after the effective date of this chapter, complies or shall comply with the residence requirements for retention of citizenship specified in subsections (g) and (h) of section 201 of the Nationality Act of 1940, as amended. (June 27, 1952, ch. 477, title III, ch. 1, § 301, 66 Stat. 235.)

REFERENCES IN TEXT

Subsections (g) and (h) of section 201 of the Nationality Act of 1940, as amended, referred to in subsec. (c), were formerly classified to section 601 of this title, and were repealed by section 403 (a) (42) of act June 27, 1952.

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

ADMISSION OF ALASKA AS STATE

Alaska Statehood provisions as not conferring, terminating or restoring United States nationality, see section 21 of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

Persons born and naturalized in United States and subject to its jurisdiction as citizens of United States and State wherein they reside, see Const. Amend. 14, § 1.

§ 1401a. Birth abroad before 1952 to service parent.

Section 1401 (a) (7) of this title shall be considered to have been and to be applicable to a child born outside of the United States and its outlying possessions after January 12, 1941, and before December 24, 1952, of parents one of whom is a citizen

of the United States who has served in the Armed Forces of the United States after December 31, 1946, and before December 24, 1952, and whose case does not come within the provisions of section 201 (g) or (i) of the Nationality Act of 1940. (Mar. 16, 1956, ch. 85, 70 Stat. 50.)

REFERENCES IN TEXT

Section 201 (g) and (i), referred to in the text, which were repealed by act June 27, 1952, ch. 477, title IV, § 403 (a) (42), 66 Stat. 280, eff. Dec. 24, 1952, provided as follows:

"The following shall be nationals and citizens of the United States at birth:

"(g) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who, prior to the birth of such person, has had ten years' residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of sixteen years, the other being an alien: *Provided*, That, in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: *Provided further*, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reaches the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease.

"The preceding provisos shall not apply to a child born abroad whose American parent is at the time of the child's birth residing abroad solely or principally in the employment of the Government of the United States or a bona fide American, educational, scientific, philanthropic, religious, commercial, or financial organization, having its principal office or place of business in the United States, or an international agency of an official character in which the United States participates, for which he receives a substantial compensation:

"(i) A person born outside the United States and its outlying possessions of parents one of whom is a citizen of the United States who has served or shall serve honorably in the armed forces of the United States after December 7, 1941, and before the date of the termination of hostilities in the present war as proclaimed by the President or determined by a joint resolution by the Congress and who, prior to the birth of such person, has had ten years' residence in the United States or one of its outlying possessions, at least five of which were after attaining the age of twelve years, the other being an alien: *Provided*, That in order to retain such citizenship, the child must reside in the United States or its outlying possessions for a period or periods totaling five years between the ages of thirteen and twenty-one years: *Provided further*, That, if the child has not taken up a residence in the United States or its outlying possessions by the time he reaches the age of sixteen years, or if he resides abroad for such a time that it becomes impossible for him to complete the five years' residence in the United States or its outlying possessions before reaching the age of twenty-one years, his American citizenship shall thereupon cease."

§ 1401b. Physical presence in the United States; absences of less than twelve months in the aggregate.

In the administration of section 1401 (b) of this title, absences from the United States of less than twelve months in the aggregate, during the period for which continuous physical presence in the United States is required, shall not be considered to break the continuity of such physical presence. (Pub. L. 85-316, § 16, Sept. 11, 1957, 71 Stat. 644.)

¹ So in original. Probably should read "United States".

CODIFICATION

Section was not enacted as a part of the Immigration and Nationality Act which comprises this chapter.

§ 1402. Persons born in Puerto Rico on or after April 11, 1899.

All persons born in Puerto Rico on or after April 11, 1899, and prior to January 13, 1941, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are declared to be citizens of the United States as of January 13, 1941. All persons born in Puerto Rico on or after January 13, 1941, and subject to the jurisdiction of the United States, are citizens of the United States at birth. (June 27, 1952, ch. 477, title III, ch. 1, § 302, 66 Stat. 236.)

CROSS REFERENCES

United States defined, see section 1101 (a) (38) of this title.

§ 1403. Persons born in the Canal Zone or Republic of Panama on or after February 26, 1904.

(a) Any person born in the Canal Zone on or after February 26, 1904, and whether before or after the effective date of this chapter, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States, is declared to be a citizen of the United States.

(b) Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this chapter, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, or its successor in title, is declared to be a citizen of the United States. (June 27, 1952, ch. 477, title III, ch. 1, § 303, 66 Stat. 236.)

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

United States defined, see section 1101 (a) (38) of this title.

§ 1404. Persons born in Alaska on or after March 30, 1867.

A person born in Alaska on or after March 30, 1867, except a noncitizen Indian, is a citizen of the United States at birth. A noncitizen Indian born in Alaska on or after March 30, 1867, and prior to June 2, 1924, is declared to be a citizen of the United States as of June 2, 1924. An Indian born in Alaska on or after June 2, 1924, is a citizen of the United States at birth. (June 27, 1952, ch. 477, title III, ch. 1, § 304, 66 Stat. 236.)

ADMISSION OF ALASKA AS STATE

Alaska Statehood provisions as not repealing, amending or modifying the provisions of this section, see section 24 of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

United States defined, see section 1101 (a) (38) of this title.

§ 1405. Persons born in Hawaii.

A person born in Hawaii on or after August 12, 1898, and before April 30, 1900, is declared to be a citizen of the United States as of April 30, 1900. A person born in Hawaii on or after April 30, 1900, is a citizen of the United States at birth. A person who was a citizen of the Republic of Hawaii on August 12, 1898, is declared to be a citizen of the United States as of April 30, 1900. (June 27, 1952, ch. 477, title III, ch. 1, § 305, 66 Stat. 237.)

CROSS REFERENCES

United States defined, see section 1101 (a) (38) of this title.

§ 1406. Persons living in and born in the Virgin Islands.

(a) The following persons and their children born subsequent to January 17, 1917, and prior to February 25, 1927, are declared to be citizens of the United States as of February 25, 1927:

(1) All former Danish citizens who, on January 17, 1917, resided in the Virgin Islands of the United States, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who did not make the declaration required to preserve their Danish citizenship by article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark, or who, having made such a declaration have heretofore renounced or may hereafter renounce it by a declaration before a court of record;

(2) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in those islands, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country;

(3) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in the United States, and were residing in those islands on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country; and

(4) All natives of the Virgin Islands of the United States who, on June 28, 1932, were residing in continental United States, the Virgin Islands of the United States, Puerto Rico, the Canal Zone, or any other insular possession or territory of the United States, and who, on June 28, 1932, were not citizens or subjects of any foreign country, regardless of their place of residence on January 17, 1917.

(b) All persons born in the Virgin Islands of the United States on or after January 17, 1917, and prior to February 25, 1927, and subject to the jurisdiction of the United States are declared to be citizens of the United States as of February 25, 1927; and all persons born in those islands on or after February 25, 1927, and subject to the jurisdiction of the United States, are declared to be citizens of the United States at birth. (June 27, 1952, ch. 477, title III, ch. 1, § 306, 66 Stat. 237.)

CROSS REFERENCES

Definition of the term—

Child, see section 1101 (b) (1), (c) (1) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1407. Persons living in and born in Guam.

(a) The following persons, and their children born after April 11, 1899, are declared to be citizens of the United States as of August 1, 1950, if they were residing on August 1, 1950, on the island of Guam or other territory over which the United States exercises rights of sovereignty:

(1) All inhabitants of the island of Guam on April 11, 1899, including those temporarily absent from the island on that date, who were Spanish subjects, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality; and

(2) All persons born in the island of Guam who resided in Guam on April 11, 1899, including those temporarily absent from the island on that date, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

(b) All persons born in the island of Guam on or after April 11, 1899 (whether before or after August 1, 1950) subject to the jurisdiction of the United States, are declared to be citizens of the United States: *Provided*, That in the case of any person born after August 1, 1950, he has taken no affirmative steps to preserve or acquire foreign nationality.

(c) Any person hereinbefore described who is a citizen or national of a country other than the United States and desires to retain his present political status shall have made, prior to August 1, 1952, a declaration under oath of such desire, said declaration to be in form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States by virtue of this chapter. (June 27, 1952, ch. 477, title III, ch. 1, § 307, 66 Stat. 237.)

CROSS REFERENCES

Definition of the term—

Child, see section 1101 (b) (1), (c) (1) of this title.

National, see section 1101 (a) (21) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1408. Nationals but not citizens of the United States at birth.

Unless otherwise provided in section 1401 of this title, the following shall be nationals, but not citizens, of the United States at birth:

(1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;

(2) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person; and

(3) A person of unknown parentage found in an outlying possession of the United States while under the age of five years, until shown, prior to

his attaining the age of twenty-one years, not to have been born in such outlying possession.

(June 27, 1952, ch. 477, title III, ch. 1, § 308, 66 Stat. 238.)

CROSS REFERENCES

Definition of the term—

National of the United States, see section 1101 (a) (22) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1409. Children born out of wedlock.

(a) The provisions of paragraphs (3)—(5) and (7) of section 1401 (a) of this title, and of paragraph (2) of section 1408, of this title shall apply as of the date of birth to a child born out of wedlock on or after the effective date of this chapter, if the paternity of such child is established while such child is under the age of twenty-one years by legitimation.

(b) Except as otherwise provided in section 405 of this Act, the provisions of section 1401 (a) (7) of this title shall apply to a child born out of wedlock on or after January 13, 1941, and prior to the effective date of this chapter, as of the date of birth, if the paternity of such child is established before or after the effective date of this chapter and while such child is under the age of twenty-one years by legitimation.

(c) Notwithstanding the provision of subsection (a) of this section, a person born, on or after the effective date of this chapter, outside the United States and out of wedlock shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year. (June 27, 1952, ch. 477, title III, ch. 1, § 309, 66 Stat. 238.)

REFERENCES IN TEXT

Section 405 of this Act, referred to in subsec. (b), is classified as a note under section 1101 of this title.

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Child, see section 1101 (b) (1), (c) (1) of this title.

National, see section 1101 (a) (21) of this title.

National of the United States, see section 1101 (a) (22) of this title.

PART II.—NATIONALITY THROUGH NATURALIZATION

§ 1421. Jurisdiction to naturalize.

(a) Exclusive jurisdiction to naturalize persons as citizens of the United States is conferred upon the following specified courts: District courts of the United States now existing, or which may hereafter be established by Congress in any State, District Court of the United States for the District of Columbia and for Puerto Rico, the District Court of the Virgin Islands of the United States, and the District Court of Guam; also all courts of record in any State or Territory now existing, or which may hereafter

be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all the courts herein specified to naturalize persons shall extend only to such persons resident within the respective jurisdiction of such courts, except as otherwise specifically provided in this subchapter.

(b) A person who petitions for naturalization in any State court having naturalization jurisdiction may petition within the State judicial district or State judicial circuit in which he resides, whether or not he resides within the county in which the petition for naturalization is filed.

(c) The courts herein specified, upon request of the clerks of such courts, shall be furnished from time to time by the Attorney General with such blank forms as may be required in naturalization proceedings.

(d) A person may be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this subchapter, and not otherwise.

(e) Notwithstanding the provisions of section 405(a), any petition for naturalization filed on or after September 26, 1961, shall be heard and determined in accordance with the requirements of this title. (June 27, 1952, ch. 477, title III, ch. 2, § 310, 66 Stat. 239; July 7, 1958, Pub. L. 85-508, § 25, 72 Stat. 351; Mar. 18, 1959, Pub. L. 86-3, § 20(c), 73 Stat. 13; Sept. 26, 1961, Pub. L. 87-301, § 17, 75 Stat. 656.)

REFERENCES IN TEXT

Section 405(a), referred to in subsec. (e), means section 405(a) of Act June 27, 1952, set out as a note under section 1101 of this title.

AMENDMENTS

1961—Subsec. (e). Pub. L. 87-301 added subsec. (e).
1959—Subsec. (a). Pub. L. 86-3 eliminated provisions which conferred jurisdiction on the District Court for the Territory of Hawaii. See section 91 of Title 28, Judiciary and Judicial Procedure, and notes thereunder.

1958—Subsec. (a). Pub. L. 85-508 eliminated provisions which conferred jurisdiction on the District Court for the Territory of Alaska. See section 81A of Title 28, Judiciary and Judicial Procedure, which established a United States District Court for the State of Alaska.

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Clerk of court, see section 1101 (a) (7) of this title.
Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Residence, see section 1101 (a) (33) of this title.

State, except as used in subsec. (a) of this section, see section 1101 (a) (36) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1422. Eligibility for naturalization.

The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race or sex or because such person is married. Notwithstanding section 405 (b) of this Act, this section shall apply to any person whose petition for naturalization shall hereafter be filed, or shall have been pending on the effective date of this chapter. (June 27, 1952, ch. 477, title III, ch. 2, § 311, 66 Stat. 239.)

REFERENCES IN TEXT

Section 405 (b) of this Act, referred to in the text, is classified as a note under section 1101 of this title.

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Naturalization, see section 1101 (a) (23) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1423. Requirements as to understanding the English language, history, principles and form of government of the United States.

No person except as otherwise provided in this subchapter shall hereafter be naturalized as a citizen of the United States upon his own petition who cannot demonstrate—

(1) an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: *Provided*, That this requirement shall not apply to any person physically unable to comply therewith, if otherwise qualified to be naturalized, or to any person who, on the effective date of this chapter, is over fifty years of age and has been living in the United States for periods totaling at least twenty years: *Provided further*, That the requirements of this section relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable condition shall be imposed upon the applicant; and

(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States. (June 27, 1952, ch. 477, title III, ch. 2, § 312, 66 Stat. 239.)

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Naturalization defined, see section 1101 (a) (23) of this title.

§ 1424. Prohibition upon the naturalization of persons opposed to government or law, or who favor totalitarian forms of government.

(a) Notwithstanding the provisions of section 405 (b) of this act, no person shall hereafter be naturalized as a citizen of the United States—

(1) who advocates or teaches, or who is a member of or affiliated with any organization that advocates or teaches, opposition to all organized government; or

(2) who is a member of or affiliated with (A) the Communist Party of the United States; (B) any other totalitarian party of the United States; (C) the Communist Political Association; (D) the Communist or other totalitarian party or any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (E) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; (F) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt; (G) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-action organization during the time it is registered or required to be registered under the provisions of section 786 of Title 50; or (H) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-front organization during the time it is registered or required to be registered under section 786 of Title 50, unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist-front organization; or

(3) who, although not within any of the other provisions of this section, advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who is a member of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under authority of such organization or paid for by the funds of such organization; or

(4) who advocates or teaches or who is a member of or affiliated with any organization that advocates or teaches (A) the overthrow by force or violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or

(5) who writes or publishes or causes to be written or published, or who knowingly circulates,

distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating (A) the overthrow by force, violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or (E) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship; or

(6) who is a member of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (5) of this subsection.

(b) The provisions of this section or of any other section of this title shall not be construed as declaring that any of the organizations referred to in this section or in any other section of this title do not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means.

(c) The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the petition for naturalization or after such filing and before taking the final oath of citizenship is, or has been found to be within any of the classes enumerated within this section, notwithstanding that at the time the petition is filed he may not be included within such classes.

(d) Any person who is within any of the classes described in subsection (a) of this section solely because of past membership in, or past affiliation with, a party or organization may be naturalized without regard to the provisions of subsection (c) of this section if such person establishes that such membership or affiliation is or was involuntary, or occurred and terminated prior to the attainment by such alien of the age of sixteen years, or that such membership or affiliation is or was by operation of law, or was for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes. (June 27, 1952, ch. 477, title III, ch. 2, § 313, 66 Stat. 240.)

REFERENCES IN TEXT

Section 405 (b) of this Act, referred to in subsec. (a), is classified as a note under section 1101 of this title.

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Advocates, see section 1101 (a) (2) of this title.
 Advocating a doctrine, see section 1101 (e) (1) of this title.
 Advocating the doctrines of world communism, see section 1101 (e) (3) of this title.
 Affiliation, see section 1101 (e) (2) of this title.
 Doctrine, see section 1101 (a) (12) of this title.
 Foreign state, see section 1101 (a) (14) of this title.
 Naturalization, see section 1101 (a) (23) of this title.
 Organization, see section 1101 (a) (28) of this title.
 Totalitarian party and totalitarian dictatorship, see section 1101 (a) (37) of this title.
 United States, see section 1101 (a) (38) of this title.
 World Communism, see section 1101 (a) (40) of this title.

§ 1425. Ineligibility to naturalization of deserters from the armed forces.

A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military, air, or naval forces of the United States, or who, having been duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or who, whether or not having been duly enrolled, went or shall go beyond the limits of the United States, with intent to avoid any draft into the military, air, or naval service, lawfully ordered, shall, upon conviction thereof by a court martial or a court of competent jurisdiction, be permanently ineligible to become a citizen of the United States; and such deserters and evaders shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof. (June 27, 1952, ch. 477, title III, ch. 2, § 314, 66 Stat. 241.)

CROSS REFERENCES

Definition of the term—

Ineligible to citizenship, see section 1101 (a) (19) of this title.
 Naturalization, see section 1101 (a) (23) of this title.
 United States, see section 1101 (a) (38) of this title.
 Loss of nationality by deserting military, air or naval forces, see section 1481 of this title.

§ 1426. Citizenship denied alien relieved of service in armed forces because of alienage; conclusiveness of records.

(a) Notwithstanding the provisions of section 405 (b) of this Act, any alien who applies or has applied for exemption or discharge from training or service in the Armed Forces or in the National Security Training Corps of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such ground, shall be permanently ineligible to become a citizen of the United States.

(b) The records of the Selective Service System or of the National Military Establishment shall be conclusive as to whether an alien was relieved or discharged from such liability for training or service because he was an alien. (June 27, 1952, ch. 477, title III, ch. 2, § 315, 66 Stat. 242.)

REFERENCES IN TEXT

Section 405 (b) of this Act, referred to in subsec. (a), is classified as a note under section 1101 of this title.

The National Military Establishment, referred to in the text of subsec. (b), was changed to the Department of Defense by act July 26, 1947, ch. 343, title II, § 201,

61 Stat. 499, as amended Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.
 Ineligible to citizenship, see section 1101 (a) (19) of this title.
 United States, see section 1101 (a) (38) of this title.

§ 1427. Requirements of naturalization.

(a) Residence.

No person, except as otherwise provided in this subchapter, shall be naturalized unless such petitioner, (1) immediately preceding the date of filing his petition for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his petition has been physically present therein for periods totaling at least half of that time, and who has resided within the State in which the petitioner filed the petition for at least six months, (2) has resided continuously within the United States from the date of the petition up to the time of admission to citizenship, and (3) during all the period referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) Absences.

Absence from the United States of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the petition for naturalization, or during the period between the date of filing the petition and the date of final hearing, shall break the continuity of such residence, unless the petitioner shall establish to the satisfaction of the court that he did not in fact abandon his residence in the United States during such period.

Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the petition for naturalization) shall break the continuity of such residence, except that in the case of a person who has been physically present and residing in the United States, after being lawfully admitted for permanent residence, for an uninterrupted period of at least one year, and who thereafter is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or corporation, or is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence, no period of absence from the United States shall break the continuity of residence if—

(1) prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries in such firm or corporation, or to be employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the court that his absence from the United States for such period has been for such purpose.

(c) **Physical presence.**

The granting of the benefits of subsection (b) of this section shall not relieve the petitioner from the requirement of physical presence within the United States for the period specified in subsection (a) of this section, except in the case of those persons who are employed by, or under contract with, the Government of the United States. In the case of a person employed by or under contract with Central Intelligence Agency, the requirement in subsection (b) of this section of an uninterrupted period of at least one year of physical presence in the United States may be complied with by such person at any time prior to filing a petition for naturalization.

(d) **Moral character.**

No finding by the Attorney General that the petitioner is not deportable shall be accepted as conclusive evidence of good moral character.

(e) **Same; determination.**

In determining whether the petitioner has sustained the burden of establishing good moral character and the other qualifications for citizenship specified in subsection (a) of this section, the court shall not be limited to the petitioner's conduct during the five years preceding the filing of the petition, but may take into consideration as a basis for such determination the petitioner's conduct and acts at any time prior to that period.

(f) **Restrictions.**

Naturalization shall not be granted to a petitioner by a naturalization court while registration proceedings or proceedings to require registration against an organization of which the petitioner is a member or affiliate are pending under section 792 or 793 of Title 50. (June 27, 1952, ch. 477, title III, ch. 2, § 316, 66 Stat. 242.)

CROSS REFERENCES

Central Intelligence Agency, see section 403 et seq. of Title 50, War and National Defense.

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Person of good moral character, see section 1101 (f) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

Proof of qualifications, see section 1446 of this title.

§ 1428. Temporary absence of persons performing religious duties.

Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary, brother, nun, or sister, who (1) has been lawfully admitted to the United States for permanent residence, (2) has at any time thereafter and before filing a petition for naturalization been physically present and residing within the United States for an uninterrupted period of at least one year, and (3) has heretofore been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing in the United States for the purpose of naturalization within the meaning of section 1426 (a) of this title, notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General and the naturalization court that his absence from the United States has been solely for the purpose of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister. (June 27, 1952, ch. 477, title III, ch. 2, § 317, 66 Stat. 243.)

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Organization, see section 1101 (a) (28) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1429. Prerequisite to naturalization; burden of proof.

Except as otherwise provided in this subchapter, no person shall be naturalized unless he has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this chapter. The burden of proof shall be upon such person to show that he entered the

United States lawfully, and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry, in the custody of the Service. Notwithstanding the provisions of section 405 (b) of this Act, and except as provided in sections 1438 and 1439 of this title no person shall be naturalized against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act; and no petition for naturalization shall be finally heard by a naturalization court if there is pending against the petitioner a deportation proceeding pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act: *Provided*, That the findings of the Attorney General in terminating deportation proceedings or in suspending the deportation of an alien pursuant to the provisions of this chapter, shall not be deemed binding in any way upon the naturalization court with respect to the question of whether such person has established his eligibility for naturalization as required by this subchapter. (June 27, 1952, ch. 477, title III, ch. 2, § 318, 66 Stat. 244.)

REFERENCES IN TEXT

Section 405 (b) of this Act, referred to in the text, is classified as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Entry, see section 1101 (a) (13) of this title.

Immigrant visa, see section 1101 (a) (16) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1430. Married persons.

(a) Any person whose spouse is a citizen of the United States may be naturalized upon compliance with all the requirements of this subchapter except the provisions of paragraph (1) of section 1427 (a) of this title if such person immediately preceding the date of filing his petition for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least three years, and during the three years immediately preceding the date of filing his petition has been living in marital union with the citizen spouse, who has been a United States citizen during all of such period, and has been physically present in the United States for periods totaling at least half of that time and has resided within the State in which he filed his petition for at least six months.

(b) Any person, (1) whose spouse is (A) a citizen of the United States, (B) in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or

corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such employment, and (2) who is in the United States at the time of naturalization, and (3) who declares before the naturalization court in good faith an intention to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse, may be naturalized upon compliance with all the requirements of the naturalization laws, except that no prior residence or specified period of physical presence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required. (June 27, 1952, ch. 477, title III, ch. 2, § 319, 66 Stat. 214; Aug. 20, 1958, Pub. L. 85-697, § 2, 72 Stat. 687.)

AMENDMENTS

1958—Subsec. (b). Pub. L. 85-697 inserted provision relating to persons performing religious duties.

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Residence, see section 1101 (a) (33) of this title.

Spouse, see section 1101 (a) (35) of this title.

United States, see section 1101 (a) (38) of this title.

Unmarried, see section 1101 (a) (39) of this title.

§ 1431. Children born outside United States of one alien and one citizen parent; conditions for automatic citizenship.

(a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when—

(1) such naturalization takes place while such child is under the age of sixteen years; and

(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of sixteen years.

(b) Subsection (a) of this section shall not apply to an adopted child. (June 27, 1952, ch. 477, title III, ch. 2, § 320, 66 Stat. 245.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Child, see section 1101 (b) (1), (c) (1) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1432. Children born outside of United States of alien parents; conditions for automatic citizenship.

(a) A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

- (1) The naturalization of both parents; or
- (2) The naturalization of the surviving parent if one of the parents is deceased; or

(3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if

(4) Such naturalization takes place while such child is under the age of sixteen years; and

(5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of sixteen years.

(b) Subsection (a) of this section shall not apply to an adopted child. (June 27, 1952, ch. 477, title III, ch. 2, § 321, 66 Stat. 245.)

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Child, see section 1101 (b) (1), (c) (1) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1433. Children born outside United States; naturalization on petition of citizen parent; requirements and exemptions.

(a) A child born outside of the United States, one or both of whose parents is at the time of petitioning for the naturalization of the child, a citizen of the United States, either by birth or naturalization, may be naturalized if under the age of eighteen years and not otherwise disqualified from becoming a citizen by reason of sections 1424—1426 or 1429 of this title, and if residing permanently in the United States, with the citizen parent, pursuant to a lawful admission for permanent residence, on the petition of such citizen parent, upon compliance with all the provisions of this subchapter, except that no particular period of residence or physical presence in the United States shall be required. If the child is of tender years he may be presumed to be of good moral character, attached to the principles of the

Constitution, and well disposed to the good order and happiness of the United States.

(b) Subsection (a) of this section shall not apply to an adopted child. (June 27, 1952, ch. 477, title III, ch. 2, § 322, 66 Stat. 246.)

CROSS REFERENCES

Definition of the term—

Child, see section 1101 (b) (2), (c) (1) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Person of good moral character, see section 1101 (f) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1434. Children adopted by citizens.

(a) An adopted child may, if not otherwise disqualified from becoming a citizen by reason of sections 1424—1426 or 1429 of this title, be naturalized before reaching the age of eighteen years upon the petition of the adoptive parent or parents, upon compliance with all the provisions of this subchapter, if the adoptive parent or parents are citizens of the United States, and the child—

(1) was lawfully admitted to the United States for permanent residence;

(2) was adopted before attaining the age of sixteen years; and

(3) subsequent to such adoption has resided continuously in the United States in legal custody of the adoptive parent or parents for two years prior to the date of filing such petition.

(b) In lieu of the residence and physical presence requirements of section 1427 (a) of this title such child shall be required to establish only two years' residence and one year's physical presence in the United States during the two-year period immediately preceding the filing of the petition. If the child is of tender years he may be presumed to be of good moral character, attached to the principles of the Constitution, and well disposed to the good order and happiness of the United States.

(c) Any such adopted child (1) one of whose adoptive parents is (A) a citizen of the United States, (B) in the Armed Forces of the United States or in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such service or employment, and (2) who is in the United States at the time of naturalization, and (3) whose citizen adoptive parent declares before the naturalization court in

good faith an intention to have such child take up residence within the United States immediately upon the termination of such service or employment abroad of such citizen adoptive parent, may be naturalized upon compliance with all the requirements of the naturalization laws except that no prior residence or specified period of physical presence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required, and paragraph (3) of subsection (a) of this section shall not be applicable. (June 27, 1952, ch. 477, title III, ch. 2, § 323, 66 Stat. 246; Sept. 11, 1957, Pub. L. 85-316, § 11, 71 Stat. 642; Aug. 20, 1958, Pub. L. 85-697, § 1, 72 Stat. 687.)

AMENDMENTS

1958—Subsec. (c). Pub. L. 85-697 inserted provision relating to persons performing religious duties.

1957—Subsec. (c). Pub. L. 85-316 added subsec (c).

CROSS REFERENCES

Definition of the term—

Child, see section 1101 (b) (1), (c) (1) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Person of good moral character, see section 1101 (f) of this title.

Residence, see section 1101 (a) (33) of this title.

§ 1435. Former citizens regaining citizenship.

(a) Requirements.

Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United States citizenship by marriage to an alien, or by the loss of United States citizenship of such person's spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this subchapter, except—

(1) no period of residence or specified period of physical presence within the United States or within the State where the petition is filed shall be required;

(2) the petition need not set forth that it is the intention of the petitioner to reside permanently within the United States;

(3) the petition may be filed in any court having naturalization jurisdiction, regardless of the residence of the petitioner;

(4) the petition may be heard at any time after filing if there is attached to the petition at the time of filing a certificate from a naturalization examiner stating that the petitioner and the witnesses have appeared before such examiner for examination.

Such person, or any person who was naturalized in accordance with the provisions of section 317 (a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon

any person who was naturalized in accordance with the provisions of section 317 (a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(b) Additional requirements.

No person who is otherwise eligible for naturalization in accordance with the provisions of subsection (a) of this section shall be naturalized unless such person shall establish to the satisfaction of the naturalization court that she has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States for a period of not less than five years immediately preceding the date of filing a petition for naturalization and up to the time of admission to citizenship, and, unless she has resided continuously in the United States since the date of her marriage, has been lawfully admitted for permanent residence prior to filing her petition for naturalization.

(c) Oath of allegiance.

(1) A woman who was a citizen of the United States at birth and (A) who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, or by her marriage on or after such date to an alien ineligible to citizenship, (B) whose marriage to such alien shall have terminated subsequent to January 12, 1941, and (C) who has not acquired by an affirmative act other than by marriage any other nationality, shall, from and after taking the oath of allegiance required by section 1448 of this title, be a citizen of the United States and have the status of a citizen of the United States by birth, without filing a petition for naturalization, and notwithstanding any of the other provisions of this subchapter except the provisions of section 1424 of this title: *Provided*, That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317 (b) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before the judge or clerk of a naturalization court.

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy, legation, consulate, or naturalization court, and, upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, or naturalization court, shall be delivered to such woman at a cost not exceeding \$5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States. (June 27, 1952, ch. 477, title III, ch. 2, § 324, 66 Stat. 246.)

REFERENCES IN TEXT

Section 317 (a) and (b) of the Nationality Act of 1940, referred to in subsecs. (a) and (c) (1), was formerly classified to section 717 (a) and (b) of this title, was repealed by section 403 (a) (42) of act June 27, 1952, and is now covered by subsecs. (a) and (c) of this section.

NATURALIZATION OF FORMER CITIZENS WHO VOTED IN CERTAIN FORMER JAPANESE ELECTIONS

Act July 20, 1954, ch. 553, 68 Stat. 495, 496, provided for naturalization of former citizens who voted in Japanese elections between Sept. 2, 1945 and Apr. 27, 1952, by taking oath required by section 1448 of this title prior to 2 years after July 20, 1954; required such persons to take oath respecting activities promoting the cause of communism, and authorized the revocation of such naturalization as provided in section 1451 of this title.

NATURALIZATION OF FORMER CITIZENS WHO VOTED IN CERTAIN FORMER ITALIAN ELECTIONS

Section 1 of act Aug. 16, 1951, ch. 321, 65 Stat. 191, as amended by section 402 (j) of act June 27, 1952, provided for naturalization of former citizens who voted in Italian elections between Jan. 1, 1946, and Apr. 18, 1948, by taking oath required by section 1448 of this title prior to 2 years from June 27, 1952; required such persons to take oath respecting activities promoting the cause of communism, and authorized the cancellation of illegal or fraudulent procurement of such naturalization.

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Ineligible to citizenship, see section 1101 (a) (19) of this title.

National, see section 1101 (a) (21) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Person of good moral character, see section 1101 (f) of this title.

Residence, see section 1101 (a) (33) of this title.

Spouse, see section 1101 (a) (35) of this title.

United States, see section 1101 (a) (38) of this title.

Unmarried, see section 1101 (a) (39) of this title.

Former citizens losing citizenship by entering armed forces of foreign countries during World War II, see section 1438 of this title.

§ 1436. Nationals but not citizens; residence within outlying possessions.

A person not a citizen who owes permanent allegiance to the United States, and who is otherwise qualified, may, if he becomes a resident of any State, be naturalized upon compliance with the applicable requirements of this subchapter, except that in petitions for naturalization filed under the provisions of this section residence and physical presence within the United States within the meaning of this subchapter shall include residence and physical presence within any of the outlying possessions of the United States. (June 27, 1952, ch. 477, title III, ch. 2, § 325, 66 Stat. 248.)

CROSS REFERENCES

Definition of the term—

National, see section 1101 (a) (21) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1437. Resident Philippine citizens excepted from certain requirements.

Any person who (1) was a citizen of the Commonwealth of the Philippines on July 2, 1946, (2) entered the United States prior to May 1, 1934, and (3) has, since such entry, resided continuously in the United States shall be regarded as having been lawfully admitted to the United States for permanent resi-

dence for the purpose of petitioning for naturalization under this subchapter. (June 27, 1952, ch. 477, title III, ch. 2, § 326, 66 Stat. 248.)

CROSS REFERENCES

Definition of the term—

Entry, see section 1101 (a) (13) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1438. Former citizens losing citizenship by entering armed forces of foreign countries during World War II.

(a) Requirements; oath; certified copies of oath.

Any person who, (1) during World War II and while a citizen of the United States, served in the military, air, or naval forces of any country at war with a country with which the United States was at war after December 7, 1941, and before September 2, 1945, and (2) has lost United States citizenship by reason of entering or serving in such forces, or taking an oath or obligation for the purpose of entering such forces, may, upon compliance with all the provisions of subchapter III of this chapter, except section 1427 (a) of this title, and except as otherwise provided in subsection (b) of this section, be naturalized by taking before any naturalization court specified in section 1421 (a) of this title the oath required by section 1448 of this title. Certified copies of such oath shall be sent by such court to the Department of State and to the Department of Justice.

(b) Exceptions.

No person shall be naturalized under subsection (a) of this section unless he—

(1) is, and has been for a period of at least five years immediately preceding taking the oath required in subsection (a) of this section, a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States; and

(2) has been lawfully admitted to the United States for permanent residence and intends to reside permanently in the United States.

(c) Status.

Any person naturalized in accordance with the provisions of this section, or any person who was naturalized in accordance with the provisions of section 323 of the Nationality Act of 1940, shall have, from and after such naturalization, the status of a native-born, or naturalized, citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided*, That nothing contained herein, or in any other provision of law, shall be construed as conferring United States citizenship retroactively upon any such person during any period in which such person was not a citizen.

(d) Span of World War II.

For the purposes of this section, World War II shall be deemed to have begun on September 1, 1939, and to have terminated on September 2, 1945.

(c) Inapplicability to certain persons.

This section shall not apply to any person who during World War II served in the armed forces of a country while such country was at war with the United States (June 27, 1952, ch. 477, title III, ch. 2, § 327, 66 Stat. 248.)

REFERENCES IN TEXT

Section 323 of the Nationality Act of 1940, referred to in subsec. (c), was formerly classified to section 723 of this title, was repealed by section 403 (a) (42) of act June 27, 1952, and is now covered by subsec. (a) of this section.

CROSS REFERENCES**Definition of the term—**

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Person of good moral character, see section 1101 (f) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

Former citizens regaining citizenship, see section 1435 of this title.

§ 1439. Naturalization through service in the armed forces.

(a) Requirements.

A person who has served honorably at any time in the armed forces of the United States for a period or periods aggregating three years, and, who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's petition, in the United States for at least five years, and in the State in which the petition for naturalization is filed for at least six months, and without having been physically present in the United States for any specified period, if such petition is filed while the petitioner is still in the service or within six months after the termination of such service.

(b) Exceptions.

A person filing a petition under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) no residence within the jurisdiction of the court shall be required;

(2) notwithstanding section 1447 (c) of this title, such petitioner may be naturalized immediately if the petitioner be then actually in the Armed Forces of the United States, and if prior to the filing of the petition, the petitioner and the witnesses shall have appeared before and been examined by a representative of the Service;

(3) the petitioner shall furnish to the Attorney General, prior to the final hearing upon his petition, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable. The certificate or certificates herein provided for shall be conclusive evidence of such service and discharge.

(c) When service not continuous.

In the case such petitioner's service was not continuous, the petitioner's residence in the United States and State, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing such petition between the periods of petitioner's service in the Armed Forces, shall be alleged in the petition filed under the provisions of subsection (a) of this section, and proved at the final hearing thereon. Such allegation and proof shall also be made as to any period between the termination of petitioner's service and the filing of the petition for naturalization.

(d) Residence requirements.

The petitioner shall comply with the requirements of section 1427 (a) of this title, if the termination of such service has been more than six months preceding the date of filing the petition for naturalization, except that such service within five years immediately preceding the date of filing such petition shall be considered as residence and physical presence within the United States.

(e) Moral character.

Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of compliance with the provisions of section 1427 (a) of this title. (June 27, 1952, ch. 477, title III, ch. 2, § 328, 66 Stat. 249.)

CROSS REFERENCES**Definition of the term—**

Attorney General, see section 1101 (a) (5) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Person of good moral character, see section 1101 (f) of this title.

Residence, see section 1101 (a) (33) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1440. Naturalization through active-duty service in armed forces during World War I or World War II or the Korean hostilities.

Any person who, while an alien or a noncitizen national of the United States, has served honorably in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1945, or during a period beginning June 25, 1950, and ending July 1, 1955, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment or induction such person shall have been in the United States, the Canal Zone, American Samoa, or Swains Island, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time sub-

sequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: *Provided, however,* That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section. No period of service in the Armed Forces shall be made the basis of a petition for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

(b) Exceptions.

A person filing a petition under subsection (a) of this section shall comply in all other respects with the requirements of this subchapter, except that—

(1) he may be naturalized regardless of age, and notwithstanding the provisions of section 1442 of this title;

(2) no period of residence or specified period of physical presence within the United States or any State shall be required;

(3) the petition for naturalization may be filed in any court having naturalization jurisdiction regardless of the residence of the petitioner;

(4) service in the military, air or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the petitioner served or is serving, which shall state whether the petitioner served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, and was separated from such service under honorable conditions; and

(5) notwithstanding section 1447 (c) of this title, the petitioner may be naturalized immediately if prior to the filing of the petition the petitioner and the witnesses shall have appeared before and been examined by a representative of the Service.

(c) Revocation.

Citizenship granted pursuant to this section may be revoked in accordance with section 1451 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.

(d) Applicability of petitions filed prior to January 1, 1947.

The eligibility for naturalization of any person who filed a petition for naturalization prior to Jan-

uary 1, 1947, under section 701 of the Nationality Act of 1940, as amended (56 Stat. 182, 58 Stat. 826, 59 Stat. 658), and which is still pending on the effective date of this chapter, shall be determined in accordance with the provisions of this section. (June 27, 1952, ch. 477, title III, ch. 2, § 329, 66 Stat. 250; Sept. 26, 1961, Pub. L. 87-301, § 8, 75 Stat. 654.)

REFERENCES IN TEXT

Section 701 of the Nationality Act of 1940, as amended, referred to in subsec. (d), was formerly classified to section 1101 of this title, was repealed by section 403 (a) (42) of act June 27, 1952, and is now covered by this section.

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-301, § 8(a), inserted "or during a period beginning June 25, 1950, and ending July 1, 1955".

Subsec. (b)(4). Pub. L. 87-301, § 8(b), inserted "or during a period beginning June 25, 1950, and ending July 1, 1955".

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

NATURALIZATION OF ALIENS ENLISTED IN REGULAR ARMY

Act June 30, 1950, ch. 443, § 4, 64 Stat. 316, as amended June 27, 1952, ch. 477, title IV, § 402 (e), 66 Stat. 276, provided that: "Notwithstanding the dates or periods of service specified and designated in section 329 of the Immigration and Nationality Act [this section], the provisions of that section are applicable to aliens enlisted or reenlisted pursuant to the provisions of this Act and who have completed five or more years of military service, if honorably discharged therefrom. Any alien enlisted or reenlisted pursuant to the provisions of this Act who subsequently enters the United States, American Samoa, Swains Island, or the Canal Zone, pursuant to military orders shall, if otherwise qualified for citizenship, and after completion of five or more years of military service, if honorably discharged therefrom, be deemed to have been lawfully admitted to the United States for permanent residence within the meaning of such section 329 (a) [subsection (a) of this section]."

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Residence, see section 1101 (a) (33) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§§ 1440a—1440d. Omitted.

CODIFICATION

Sections, act June 30, 1953, ch. 162, §§ 1—4, 67 Stat. 108, which authorized naturalization of persons who served in the Armed Forces after June 29, 1950 and not later than July 1, 1955, were omitted as obsolete, since the provisions of section 1 of act June 30, 1953, required the petition for naturalization to be filed not later than December 31, 1955.

§ 1441. Constructive residence through service on certain United States vessels.

(a) (1) Any periods of time during all of which a person who was previously lawfully admitted for permanent residence has served honorably or with good conduct, in any capacity other than as a member of the Armed Forces of the United States, (A) on board a vessel operated by the United States, or an agency thereof, the full legal and equitable title

to which is in the United States; or (B) on board a vessel whose home port is in the United States, and (i) which is registered under the laws of the United States, or (ii) the full legal and equitable title to which is in a citizen of the United States, or a corporation organized under the laws of any of the several States of the United States, shall be deemed residence and physical presence within the United States within the meaning of section 1427 (a) of this title, if such service occurred within five years immediately preceding the date such person shall file a petition for naturalization. Service on vessels described in clause (A) of this subsection shall be proved by duly authenticated copies of the records of the executive departments or agency having custody of the records of such service. Service on vessels described in clause (B) of this subsection may be proved by certificates from the masters of such vessels.

(2) For the purposes of this subsection, any periods of time prior to September 23, 1950, during all of which any person had served honorably or with good conduct for an aggregate period of five years on any vessel described in section 325 (a) of the Nationality Act of 1940 prior to its amendment by the Act of September 23, 1950, shall be deemed residence and physical presence within the United States within the meaning of section 1427 (a) of this title, if such petition is filed within one year from the effective date of this chapter. Notwithstanding the provisions of section 1429 of this title, a person entitled to claim the exemptions contained in this paragraph shall not be required to establish a lawful admission for permanent residence.

(3) For the purposes of this subsection, any periods of time prior to September 23, 1950, during all of which any person not within the provisions of paragraph (2) of this subsection had, prior to September 23, 1950, served honorably or with good conduct on any vessel described in section 325 (a) of the Nationality Act of 1940 prior to its amendment by the Act of September 23, 1950, and was so serving on September 23, 1950, shall be deemed residence and physical presence within the United States within the meaning of section 1427 (a) of this title, if such person at any time prior to filing his petition for naturalization shall have been lawfully admitted to the United States for permanent residence, and if such petition is filed on or before September 23, 1955.

(b) Any person who was excepted from certain requirements of the naturalization laws under section 325 of the Nationality Act of 1940 prior to its amendment by the Act of September 23, 1950, and had filed a petition for naturalization under section 325 of the Nationality Act of 1940, may, if such petition was pending on September 23, 1950, and is still pending on the effective date of this chapter, be naturalized upon compliance with the applicable provisions of the naturalization laws in effect upon the date such petition was filed: *Provided*, That any such person shall be subject to the provisions of section 1424 of this title and to those provisions of section 1429 of this title which relate to the prohibition against the naturalization of a person against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest issued

under the provisions of this chapter or any other Act, or which relate to the prohibition against the final hearing on a petition for naturalization if there is pending against the petitioner a deportation proceeding pursuant to a warrant of arrest issued under the provisions of this chapter or any other Act. (June 27, 1952, c.n. 477, title III, ch. 2, § 330, 66 Stat. 251.)

REFERENCES IN TEXT

Section 325 of the Nationality Act of 1940, referred to in the text, was formerly classified to section 725 (a) of this title, was repealed by section 403 (a) (42) of act June 27, 1952, and is now covered by subsec. (a) (1) of this section.

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1442. Alien enemies.

(a) Naturalization under specified conditions.

An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war may, after his loyalty has been fully established upon investigation by the Attorney General, be naturalized as a citizen of the United States if such alien's petition for naturalization shall be pending at the beginning of the state of war and the petitioner is otherwise entitled to admission to citizenship.

(b) Procedure.

An alien embraced within this section shall not have his petition for naturalization called for a hearing, or heard, except after ninety days' notice given by the clerk of the court to the Attorney General to be represented at the hearing, and the Attorney General's objection to such final hearing shall cause the petition to be continued from time to time for so long as the Attorney General may require.

(c) Exceptions from classification.

The Attorney General may, in his discretion, upon investigation fully establishing the loyalty of any alien enemy who did not have a petition for naturalization pending at the beginning of the state of war, except such alien enemy from the classification of alien enemy for the purposes of this subchapter, and thereupon such alien shall have the privilege of filing a petition for naturalization.

(d) Effect and cessation of hostilities.

An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war shall cease to be an alien enemy within the meaning of this section upon the determination by proclamation of the President, or by concurrent resolution of the Congress, that hostilities between the United States and such country, state, or sovereignty have ended. Notwithstanding the provisions of section 405 (b) of this Act, this subsection shall also apply to the case of any such alien whose petition for naturalization was filed

prior to the effective date of this chapter and which is still pending on that date.

(e) Apprehension and removal.

Nothing contained herein shall be taken or construed to interfere with or prevent the apprehension and removal, consistent with law, of any alien enemy at any time prior to the actual naturalization of such alien. (June 27, 1952, ch. 477, title III, ch. 2, § 331, 66 Stat. 252.)

REFERENCES IN TEXT

Section 405 (b) of this Act, referred to in subsec. (d), is classified as a note under section 1101 of this title.

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Clerk of court, see section 1101 (a) (7) of this title.

Naturalization, see section 1101 (a) (23) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1443. Administration.

(a) Rules and regulations governing examination of petitioners; limitation on examination.

The Attorney General shall make such rules and regulations as may be necessary to carry into effect the provisions of this Part and is authorized to prescribe the scope and nature of the examination of petitioners for naturalization as to their admissibility to citizenship for the purpose of making appropriate recommendations to the naturalization courts. Such examination, in the discretion of the Attorney General, and under such rules and regulations as may be prescribed by him, may be conducted before or after the applicant has filed his petition for naturalization. Such examination shall be limited to inquiry concerning the applicant's residence, physical presence in the United States, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, ability to read, write, and speak English, and other qualifications to become a naturalized citizen as required by law, and shall be uniform throughout the United States.

(h) Instruction in citizenship.

The Attorney General is authorized to promote instruction and training in citizenship responsibilities of applicants for naturalization including the sending of names of candidates for naturalization to the public schools, preparing and distributing citizenship textbooks to such candidates as are receiving instruction in preparation for citizenship within or under the supervision of the public schools, preparing and distributing monthly an immigration and naturalization bulletin and securing the aid of and cooperating with official State and national organizations, including those concerned with vocational education.

(c) Prescription of forms.

The Attorney General shall prescribe and furnish such forms as may be required to give effect to the provisions of this Part, and only such forms as may be so provided shall be legal. All certificates

of naturalization and of citizenship shall be printed on safety paper and shall be consecutively numbered in separate series.

(d) Administration of oaths and depositions.

Employees of the Service may be designated by the Attorney General to administer oaths and to take depositions without charge in matters relating to the administration of the naturalization and citizenship laws. In cases where there is a likelihood of unusual delay or of hardship, the Attorney General may, in his discretion, authorize such depositions to be taken before a postmaster without charge, or before a notary public or other person authorized to administer oaths for general purposes.

(e) Issuance of certificate of naturalization or citizenship.

A certificate of naturalization or of citizenship issued by the Attorney General under the authority of this subchapter shall have the same effect in all courts, tribunals, and public offices of the United States, at home and abroad, of the District of Columbia, and of each State, Territory, and outlying possession of the United States, as a certificate of naturalization or of citizenship issued by a court having naturalization jurisdiction.

(f) Copies of records.

Certifications and certified copies of all papers, documents, certificates, and records required or authorized to be issued, used, filed, recorded, or kept under any and all provisions of this chapter shall be admitted in evidence equally with the originals in any and all cases and proceedings under this chapter and in all cases and proceedings in which the originals thereof might be admissible as evidence.

(g) Furnished quarters for photographic studios.

The officers in charge of property owned or leased by the Government are authorized, upon the recommendation of the Attorney General, to provide quarters, without payment of rent, in any building occupied by the Service, for a photographic studio, operated by welfare organizations without profit and solely for the benefit of persons seeking to comply with requirements under the immigration and nationality laws. Such studio shall be under the supervision of the Attorney General. (June 27, 1952, ch. 477, title III, ch. 2, § 332, 66 Stat. 252.)

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Person of good moral character, see section 1101 (f) of this title.

Residence, see section 1101 (a) (33) of this title.

Service, see section 1101 (a) (34) of this title.

§ 1444. Photographs; number.

(a) Three identical photographs of the applicant shall be signed by and furnished by each petitioner for naturalization or citizenship. One of such photographs shall be affixed by the clerk of the court to the original certificate of naturalization issued to the naturalized citizen and one to the duplicate certificate of naturalization required to be forwarded to the Service.

(b) Three identical photographs of the applicant shall be furnished by each applicant for—

- (1) a record of lawful admission for permanent residence to be made under section 1259 (a) of this title;
- (2) a certificate of derivative citizenship;
- (3) a certificate of naturalization or of citizenship;
- (4) a special certificate of naturalization;
- (5) a certificate of naturalization or of citizenship, in lieu of one lost, mutilated, or destroyed;
- (6) a new certificate of citizenship in the new name of any naturalized citizen who, subsequent to naturalization, has had his name changed by order of a court of competent jurisdiction or by marriage; and
- (7) a declaration of intention.

One such photograph shall be affixed to each such certificate issued by the Attorney General and one shall be affixed to the copy of such certificate retained by the Service. (June 27, 1952, ch. 477, title III, ch. 2, § 333, 66 Stat. 253.)

CROSS REFERENCES

Definition of the term—

- Attorney General, see section 1101 (a) (5) of this title.
 Clerk of court, see section 1101 (a) (7) of this title.
 Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.
 Naturalization, see section 1101 (a) (23) of this title.
 Service, see section 1101 (a) (34) of this title.
 Photographic studio for benefit of aliens, see section 1443 (g) of this title.

§ 1445. Petition for naturalization.

(a) Evidence and form; verification.

An applicant for naturalization shall make and file in the office of the clerk of a naturalization court, in duplicate, a sworn petition in writing, signed by the applicant in the applicant's own handwriting if physically able to write, and duly verified by two witnesses, which petition shall be on a form prescribed by the Attorney General and shall include averments of all facts which in the opinion of the Attorney General may be material to the applicant's naturalization, and required to be proved upon the hearing of such petition.

(b) Who may file.

No person shall file a valid petition for naturalization unless (1) he shall have attained the age of eighteen years and (2) he shall have first filed an application therefor at an office of the Service in the form and manner prescribed by the Attorney General. An application for petition for naturalization by an alien shall contain an averment of lawful admission for permanent residence.

(c) When filed.

Petitions for naturalization may be made and filed during the term time or vacation of the naturalization court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court.

(d) Substitute filing place.

If the applicant for naturalization is prevented by sickness or other disability from presenting himself in the office of the clerk to make the petition re-

quired by subsection (a) of this section, such applicant may make such petition at such other place as may be designated by the clerk of court or by such clerk's authorized deputy.

(e) Same; investigation into reasons.

Before a petition for naturalization may be made outside of the office of the clerk of the court, pursuant to subsection (d) of this section, or before a final hearing on a petition may be held or the oath of allegiance administered outside of open court, pursuant to sections 1447 (a) and 1448 (c) of this title, the court must satisfy itself that the illness or other disability is sufficiently serious to prevent appearance in the office of the clerk of court and is of a permanent nature, or of a nature which so incapacitates the person as to prevent him from personally appearing in the office of the clerk of court or in court as otherwise required by law.

(f) Declaration of intention.

Any alien over eighteen years of age who is residing in the United States pursuant to a lawful admission for permanent residence may, upon an application prescribed, filed with, and approved by the Service, make and file in duplicate in the office of the clerk of court, regardless of the alien's place of residence in the United States, a signed declaration of intention to become a citizen of the United States, in such form as the Attorney General shall prescribe. Nothing in this subsection shall be construed as requiring any such alien to make and file a declaration of intention as a condition precedent to filing a petition for naturalization nor shall any such declaration of intention be regarded as conferring or having conferred upon any such alien United States citizenship or nationality or the right to United States citizenship or nationality, nor shall such declaration be regarded as evidence of such alien's lawful admission for permanent residence in any proceeding, action, or matter arising under this chapter or any other act. (June 27, 1952, ch. 477, title III, ch. 2, § 334, 66 Stat. 255.)

CROSS REFERENCES

Definition of the term—

- Alien, see section 1101 (a) (3) of this title.
 Attorney General, see section 1101 (a) (5) of this title.
 Clerk of court, see section 1101 (a) (7) of this title.
 Lawfully admitted for permanent residence, see section 1101 (a) (20) of this title.
 National of the United States, see section 1101 (a) (22) of this title.
 Naturalization, see section 1101 (a) (23) of this title.
 Naturalization court, see section 1101 (a) (24) of this title.
 Residence, see section 1101 (a) (33) of this title.
 Service, see section 1101 (a) (34) of this title.
 United States, see section 1101 (a) (38) of this title.
 Record of admission for permanent residence in the case of certain aliens who entered the United States prior to June 28, 1940, see section 1259 of this title.
 Records of admission, see section 1230 of this title.

§ 1446. Investigation of petitioners.

(a) Waiver.

At any time prior to the holding of the final hearing on a petition for naturalization provided for by section 1447 (a) of this title, an employee of the Service, or of the United States designated by the

Attorney General, shall conduct a personal investigation of the person petitioning for naturalization in the vicinity or vicinities in which such person has maintained his actual place of abode and in the vicinity or vicinities in which such person has been employed or has engaged in business or work for at least five years immediately preceding the filing of his petition for naturalization. The Attorney General may, in his discretion, waive a personal investigation in an individual case or in such cases or classes of cases as may be designated by him.

(b) Conduct of examinations; authority of designees; record.

The Attorney General shall designate employees of the Service to conduct preliminary examinations upon petitions for naturalization to any naturalization court and to make recommendations thereon to such court. For such purposes any such employee so designated is authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any petitioner for naturalization, to administer oaths, including the oath of the petitioner for naturalization and the oaths of petitioner's witnesses to the petition for naturalization, and to require by subpoena the attendance and testimony of witnesses, including petitioner, before such employee so designated and the production of relevant books, papers, and documents, and to that end may invoke the aid of any court exercising naturalization jurisdiction as specified in section 1421 of this title; and any such court may, in the event of neglect or refusal to respond to a subpoena issued by any such employee so designated or refusal to testify before such employee so designated issue an order requiring such person to appear before such employee so designated, produce relevant books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. The record of the preliminary examination authorized by this subsection shall be admissible as evidence in any final hearing conducted by a naturalization court designated in section 1421 of this title.

(c) Transmittal of record of preliminary examination.

The record of the preliminary examination upon any petition for naturalization may, in the discretion of the Attorney General be transmitted to the Attorney General and the recommendation with respect thereto of the employee designated to conduct such preliminary examination shall when made also be transmitted to the Attorney General.

(d) Submission of recommendations to court.

The recommendation of the employee designated to conduct any such preliminary examination shall be submitted to the court at the hearing upon the petition and shall include a recommendation that the petition be granted, or denied, or continued, with reasons therefor. In any case in which the recommendation of the Attorney General does not agree with that of the employee designated to conduct such preliminary examination, the recommendations of both such employee and the Attorney General shall be submitted to the court at the hearing upon the petition, and the officer of the Service in attendance at such hearing shall, at the request of the court,

present both the views of such employee and those of the Attorney General with respect to such petition to the court. The recommendations of such employee and of the Attorney General shall be accompanied by duplicate lists containing the names of the petitioners, classified according to the character of the recommendations, and signed by such employee or the Attorney General, as the case may be. The judge to whom such recommendations are submitted shall, if he approve such recommendations, enter a written order with such exceptions as the judge may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendations. One of each such lists shall thereafter be filed permanently of record in such court and the duplicate of each such list shall be sent by the clerk of such court to the Attorney General.

(e) Withdrawal of petition.

After the petition for naturalization has been filed in the office of the clerk of court, the petitioner shall not be permitted to withdraw his petition, except with the consent of the Attorney General. In cases where the Attorney General does not consent to withdrawal of the petition, the court shall determine the petition on its merits and enter a final order accordingly. In cases where the petitioner fails to prosecute his petition, the petition shall be decided upon its merits unless the Attorney General moves that the petition be dismissed for lack of prosecution.

(f) Affidavits.

As to each period and place of residence in the State in which the petitioner resides at the time of filing the petition, during the entire period of at least six months immediately preceding the date of filing the petition, there shall be included in the petition for naturalization the affidavits of at least two credible witnesses, citizens of the United States, stating that each has personally known the petitioner to have been a resident at such place for such period, and that the petitioner is and during all such periods has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(g) Hearing; proof of residence.

At the hearing on the petition, residence in the State in which the petitioner resides at the time of filing the petition, for at least six months immediately preceding the date of filing the petition, and the other qualifications required by section 1427 (a) of this title during such residence shall be proved by the oral testimony of at least two credible witnesses, citizens of the United States, in addition to the affidavits required by subsection (f) of this section to be included in the petition. At the hearing, residence and physical presence within the United States during the five-year period required by section 1427 (a) of this title, but outside the State, or within the State but prior to the six months immediately preceding the date of filing the petition, and the other qualifications required by section 1427 (a) of this title during such period at such places, shall be proved either by depositions taken in accordance with subsection (d) of section 1443 of this

title, or oral testimony, of at least two such witnesses for each place of residence.

(h) Same; satisfactory evidence as to good moral character, etc.

Notwithstanding the provisions of subsections (f) and (g) of this section, the requirements of subsection (a) of section 1427 of this title as to the petitioner's residence, good moral character, attachment to the principles of the Constitution of the United States, and disposition toward the good order and happiness of the United States may be established by any evidence satisfactory to the naturalization court in those cases under subsection (b) of section 1427 of this title in which the alien has been absent from the United States because of his employment by or contract with the Government of the United States or an American institution of research, recognized as such by the Attorney General, or employment by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States or a subsidiary thereof, or employment by a public international organization in which the United States participates.

(i) Transfer of petition; transmittal of certified copy of petition and record.

(1) A petitioner for naturalization who removes from the jurisdiction of the court in which his petition for naturalization is pending may, at any time thereafter, make application to the court for transfer of the petition to a naturalization court exercising jurisdiction over the petitioner's place of residence, or to any other naturalization court if the petition was not required to be filed in a naturalization court exercising jurisdiction over the petitioner's place of residence: *Provided*, That such transfer shall not be made without the consent of the Attorney General, and of the court to which the petition is transferred.

(2) Where transfer of the petition is authorized the clerk of court in which the petition was filed shall forward a certified copy of the petition and the original record in the case to the clerk of court to which the petition is transferred, and proceedings on the petition shall thereafter continue as though the petition had originally been filed in the court to which transferred, except that the court to which the petition is transferred may in its discretion, require the production of two credible United States citizen witnesses to testify as to the petitioner's qualifications for naturalization since the date of such transfer. (June 27, 1952, ch. 477, title III, ch. 2, § 335, 66 Stat. 256.)

CROSS REFERENCES

Contempts, see chapter 21 of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Clerk of court, see section 1101 (a) (7) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Person of good moral character, see section 1101 (f) of this title.

Residence, see section 1101 (a) (33) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1447. Final hearing.

(a) Open court; examination under oath.

Every final hearing upon a petition for naturalization shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the petitioner and the witnesses, except as provided in subsection (b) of this section, shall be examined under oath before the court and in the presence of the court. If the petitioner is prevented by sickness or other disability from being in open court for the final hearing upon a petition for naturalization, such final hearing may be had before a judge or judges of the court at such place as may be designated by the court.

(b) Exceptions.

The requirement of subsection (a) of this section for the examination of the petitioner and the witnesses under oath before the court and in the presence of the court shall not apply in any case where an employee designated under section 1446 (b) of this title has conducted the preliminary examination authorized by section 1446 (b) of this title; except that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner and the witnesses under oath before the court and in the presence of the court.

(c) Waiting period after filing of petition; waiver.

Except as otherwise specifically provided in this subchapter, no final hearing shall be held on any petition for naturalization nor shall any person be naturalized nor shall any certificate of naturalization be issued by any court within a period of thirty days after the filing of the petition for naturalization. The Attorney General may waive such period in an individual case if he finds that the waiver will be in the public interest and will promote the security of the United States. Notwithstanding any other provisions of this subchapter, but except as provided in sections 1439 (b) (2) and 1440 (b) (5) of this title, in any case in which the final hearing on any petition for naturalization is scheduled to be held within sixty days preceding the holding of a general election within the territorial jurisdiction of the naturalization court, such final hearing may be held, but the petitioner shall not be permitted to take the oath required in section 1448 (a) of this title prior to the tenth day next following such general election. In any case in which the oath is not taken at the time of the final hearing, the petitioner shall not be a citizen of the United States until such oath has been taken.

(d) Appearance of Attorney General.

The Attorney General shall have the right to appear before any court in any naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of the petition concerning any matter touching or in any way affecting the petitioner's right to admission to citizenship, and shall have the right to call witnesses, including the petitioner, produce evidence, and be heard in opposition to, or in favor of, the

granting of any petition in naturalization proceedings.

(e) Subpena of witness.

The clerk of court shall, if the petitioner requests it at the time of filing the petition for naturalization, issue a subpena for the witnesses named by such petitioner to appear upon the day set for the final hearing, but in case such witnesses cannot be produced upon the final hearing other witnesses may be summoned upon notice to the Attorney General, in such manner and at such time as the Attorney General may by regulation prescribe. If it should appear after the petition has been filed that any of the verifying witnesses thereto are not competent, and it further appears that the petitioner has acted in good faith in producing such witnesses found to be incompetent, other witnesses may be substituted in accordance with such regulations.

(f) Change of name of petitioner.

It shall be lawful at the time and as a part of the naturalization of any person, for the court, in its discretion, upon the bona fide prayer of the petitioner included in the petition for naturalization of such person, to make a decree changing the name of said person, and the certificate of naturalization shall be issued in accordance therewith. (June 27, 1952, ch. 477, title III, ch. 2, § 336, 66 Stat. 257.)

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Clerk of court, see section 1101 (a) (7) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

§ 1448. Oath of renunciation and allegiance.

(a) A person who has petitioned for naturalization shall, in order to be and before being admitted to citizenship, take in open court an oath (1) to support the Constitution of the United States; (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the petitioner was before a subject or citizen; (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear true faith and allegiance to the same; and (5) (A) to bear arms on behalf of the United States when required by the law, or (B) to perform noncombatant service in the Armed Forces of the United States when required by the law, or (C) to perform work of national importance under civilian direction when required by the law. Any such person shall be required to take an oath containing the substance of clauses (1)—(5) of the preceding sentence, except that a person who shows by clear and convincing evidence to the satisfaction of the naturalization court that he is opposed to the bearing of arms in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of clauses (1)—(4) and clauses (5) (B) and (5) (C) of this subsection, and a person who shows by clear and convincing evidence to the satis-

faction of the naturalization court that he is opposed to any type of service in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of said clauses (1)—(4) and clause (5) (C). The term "religious training and belief" as used in this section shall mean an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. In the case of the naturalization of a child under the provisions of section 1433 or 1434 of this title the naturalization court may waive the taking of the oath if in the opinion of the court the child is unable to understand its meaning.

(b) In case the person petitioning for naturalization has borne any hereditary title, or has been of any of the orders of nobility in any foreign state, the petitioner shall in addition to complying with the requirements of subsection (a) of this section, make under oath in open court in the court in which the petition for naturalization is made, an express renunciation of such title or order of nobility, and such renunciation shall be recorded in the court as a part of such proceedings.

(c) If the petitioner is prevented by sickness or other disability from being in open court, the oath required to be taken by subsection (a) of this section may be taken before a judge of the court at such place as may be designated by the court. (June 27, 1952, ch. 477, title III, ch. 2, § 337, 66 Stat. 258.)

CROSS REFERENCES

Definition of the term—

Child, see section 1101 (b) (1), (c) (1) of this title.

Foreign state, see section 1101 (a) (14) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

§ 1449. Certificate of naturalization; contents.

A person admitted to citizenship by a naturalization court in conformity with the provisions of this subchapter shall be entitled upon such admission to receive from the clerk of such court a certificate of naturalization, which shall contain substantially the following information: Number of petition for naturalization; number of certificate of naturalization; date of naturalization; name, signature, place of residence, autographed photograph, and personal description of the naturalized person, including age, sex, marital status, and country of former nationality; title, venue, and location of the naturalization court; statement that the court, having found that the petitioner intends to reside permanently in the United States, except in cases falling within the provisions of section 1435 (a) of this title, had complied in all respects with all of the applicable provisions of the naturalization laws of the United States, and was entitled to be admitted a citizen of the United States of America, thereupon ordered that the petitioner be admitted as a citizen of the United States of America; attestation of the clerk of the naturalization court; and seal of the court. (June 27, 1952, ch. 477, title III, ch. 2, § 338, 66 Stat. 259.)

CROSS REFERENCES

Definition of the term—

Clerk of court, see section 1101 (a) (7) of this title.
 National, see section 1101 (a) (21) of this title.
 Naturalization, see section 1101 (a) (23) of this title.
 Naturalization court, see section 1101 (a) (24) of this title.
 Permanent, see section 1101 (a) (31) of this title.
 Residence, see section 1101 (a) (33) of this title.
 Unmarried, see section 1101 (a) (39) of this title.

§ 1450. Functions and duties of clerks of naturalization courts.

(a) It shall be the duty of the clerk of each and every naturalization court to forward to the Attorney General a duplicate of each petition for naturalization within thirty days after the close of the month in which such petition was filed, and to forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

(b) It shall be the duty of the clerk of each and every naturalization court to issue to any person admitted by such court to citizenship a certificate of naturalization and to forward to the Attorney General within thirty days after the close of the month in which such certificate was issued, a duplicate thereof, and to make and keep on file in the clerk's office a stub for each certificate so issued, whereon shall be entered a memorandum of all the essential facts set forth in such certificate, and to forward a duplicate of each such stub to the Attorney General within thirty days after the close of the month in which such certificate was issued.

(c) It shall be the duty of the clerk of each and every naturalization court to report to the Attorney General, within thirty days after the close of the month in which the final hearing and decision of the court was had, the name and number of the petition of each and every person who shall be denied naturalization together with the cause of such denial.

(d) Clerks of courts shall be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General, and shall account to the Attorney General for them whenever required to do so. No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.

(e) It shall be the duty of the clerk of each and every naturalization court to cause to be filed in chronological order in separate volumes, indexed, consecutively numbered, and made a part of the records of such court, all declarations of intention and petitions for naturalization. (June 27, 1952, ch. 477, title III, ch. 2, § 339, 66 Stat. 259.)

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.
 Clerk of court, see section 1101 (a) (7) of this title.
 Naturalization, see section 1101 (a) (23) of this title.
 Naturalization court, see section 1101 (a) (24) of this title.

§ 1451. Revocation of naturalization.

(a) Concealment of material evidence; refusal to testify.

It shall be the duty of the United States attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any court specified in subsection (a) of section 1421 of this title in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively: *Provided*, That refusal on the part of a naturalized citizen within a period of ten years following his naturalization to testify as a witness in any proceeding before a congressional committee concerning his subversive activities, in a case where such person has been convicted of contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having been procured by concealment of a material fact or by willful misrepresentation. If the naturalized citizen does not reside in any judicial district in the United States at the time of bringing such suit, the proceedings may be instituted in the United States District Court for the District of Columbia or in the United States district court in the judicial district in which such person last had his residence.

(b) Notice to party.

The party to whom was granted the naturalization alleged to have been illegally procured or procured by concealment of a material fact or by willful misrepresentation shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice, unless waived by such party, in which to make answers to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had his residence, such notice shall be given either by personal service upon him or by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the States or the place where such suit is brought.

(c) Membership in certain organizations; prima facie evidence.

If a person who shall have been naturalized after the effective date of this chapter shall within five years next following such naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization under the provisions of section 1424 of this title, it shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of nat-

uralization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

(d) Foreign residence.

If a person who shall have been naturalized shall, within five years after such naturalization, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such person to reside permanently in the United States at the time of filing his petition for naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively. The diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with statements of the names of those persons within their respective jurisdictions who have been so naturalized and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to revoke and set aside the order admitting to citizenship and to cancel the certificate of naturalization.

(e) Wife or minor child not affected.

The revocation and setting aside of the order admitting any person to citizenship and canceling his certificate of naturalization under the provisions of subsection (a) of section 338 of the Nationality Act of 1940 shall not, where such action takes place after the effective date of this chapter, result in the loss of citizenship or any right or privilege of citizenship which would have been derived by or been available to a wife or minor child of the naturalized person had such naturalization not been revoked: *Provided*, That this subsection shall not apply in any case in which the revocation and setting aside of the order was the result of actual fraud.

(f) Applicability to citizenship through naturalization of parent or spouse.

Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship under the provisions of subsection (a) of this

section on the ground that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which he may have, now has, or may hereafter acquire under and by virtue of such naturalization of such parent or spouse, regardless of whether such person is residing within or without the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship. Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization under the provisions of subsections (c) or (d) of this section, or under the provisions of section 1440 (c) of this title on any ground other than that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation, shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which would have been enjoyed by such person had there not been a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization, unless such person is residing in the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization.

(g) Citizenship unlawfully procured.

When a person shall be convicted under section 1425 of Title 18 of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

(h) Cancellation of certificate of naturalization.

Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Attorney General. In case such certificate was not originally issued by the court making such order, it shall direct the clerk of court in which the order is revoked and set aside to transmit a copy of such order and judgment to the court out of which such certificate of naturalization shall have been originally issued. It shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of naturalization, if there be any, upon the records and to notify the Attorney General of the entry of such order and of such cancellation. A person holding a certificate of naturalization or citizenship which has been canceled as provided by

this section shall upon notice by the court by which the decree of cancellation was made, or by the Attorney General, surrender the same to the Attorney General.

(i) **Applicability of certificates of naturalization and citizenship.**

The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization and citizenship issued under the provisions of this subchapter, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court, or by a designated representative of the Commissioner under the provisions of section 702 of the Nationality Act of 1940, as amended, or by such designated representative under any other act.

(j) **Power of court to correct, reopen, alter, modify or vacate judgment or decree.**

Nothing contained in this section shall be regarded as limiting, denying, or restricting the power of any naturalization court, by or in which a person has been naturalized, to correct, reopen, alter, modify, or vacate its judgment or decree naturalizing such person, during the term of such court or within the time prescribed by the rules of procedure or statutes governing the jurisdiction of the court to take such action. (June 27, 1952, ch. 477, title III, ch. 2, § 340, 66 Stat. 260; Sept. 3, 1954, ch. 1263, § 18, 68 Stat. 1232; Sept. 26, 1961, Pub. L. 87-301, § 18, 75 Stat. 656.)

REFERENCES IN TEXT

Subsection (a) of section 338 of the Nationality Act of 1940, referred to in subsec. (e), was formerly classified to section 738 (a) of this title, was repealed by section 403 (a) (42) of act June 27, 1952, and is now covered by subsec. (a) of this section.

Section 702 of the Nationality Act of 1940, as amended, referred to in subsec. (i), was formerly classified to section 1002 of this title, was repealed by section 403 (a) (42) of act June 27, 1952, and is now covered by section 1440 of this title.

AMENDMENTS

1961—Subsec. (a). Pub. L. 87-301, § 18(a), inserted "were illegally procured or" following "that such order and certificate of naturalization."

Subsec. (b). Pub. L. 87-301, § 18(b), inserted "illegally procured or" preceding "procured by concealment."

1954—Subsec. (a). Act Sept. 3, 1954, substituted "United States attorneys" for "United States district attorneys".

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Contempts, see chapter 21 of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Child, see section 1101 (b) (1), (c) (1) of this title.

Clerk of court, see section 1101 (a) (7) of this title.

Commissioner, see section 1101 (a) (8) of this title.

Consular officer, see section 1101 (a) (9) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Organization, see section 1101 (a) (28) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Permanent, see section 1101 (a) (31) of this title.
Residence, see section 1101 (a) (33) of this title.
Spouse, wife or husband, see section 1101 (a) (35) of this title.
United States, see section 1101 (a) (38) of this title.

§ 1452. **Certificates of citizenship; procedure.**

A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a husband, or who is a citizen of the United States by virtue of the provisions of section 1993 of the United States Revised Statutes, or of section 1993 of the United States Revised Statutes, as amended by section 1 of the Act of May 24, 1934 (48 Stat. 797), or who is a citizen of the United States by virtue of the provisions of subsections (c), (d), (e), (g), or (i) of section 201 of the Nationality Act of 1940, as amended (54 Stat. 1138), or of the Act of May 7, 1934 (48 Stat. 667), or of paragraph (3)—(5) or (7) of section 1401 (a) of this title, or under the provisions of the Act of August 4, 1937 (50 Stat. 558), or under the provisions of section 203 or 205 of the Nationality Act of 1940 (54 Stat. 1139), or under the provisions of section 1403 of this title, may apply to the Attorney General for a certificate of citizenship. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, or acquired, as the case may be, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this chapter of a petitioner for naturalization, such individual shall be furnished by the Attorney General with a certificate of citizenship, but only if such individual is at the time within the United States. (June 27, 1952, ch. 477, title III, ch. 2, § 341, 66 Stat. 263.)

REFERENCES IN TEXT

Section 1993 of the Revised Statutes, referred to in the text, was formerly classified to section 6 of this title and was repealed by act Oct. 14, 1940, ch. 876, title I, subch. V, § 504, 54 Stat. 177.

Sections 201, 203 and 205, of the Nationality Act, as amended, referred to in the text, were classified to former sections 601, 603 and 605, respectively of this title, and repealed by section 403 (a) (42) of act June 27, 1952.

Act Aug. 4, 1937, referred to in the text, was classified to former section 5 (d) and (e) of this title and was repealed by said act Oct. 14, 1940.

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Husband, see section 1101 (a) (35) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1453. **Cancellation of certificates issued by Attorney General, the Commissioner or a Deputy Commissioner; action not to affect citizenship status.**

The Attorney General is authorized to cancel any certificate of citizenship, certificate of naturalization, copy of a declaration of intention, or other certificate, document or record heretofore issued or made by the Commissioner or a Deputy Commissioner or hereafter made by the Attorney General if

it shall appear to the Attorney General's satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, him or the Commissioner or a Deputy Commissioner; but the person for or to whom such document or record has been issued or made shall be given at such person's last-known place of address written notice of the intention to cancel such document or record with the reasons therefor and shall be given at least sixty days in which to show cause why such document or record should not be canceled. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued. (June 27, 1952, ch. 477, title III, ch. 2, § 342, 66 Stat. 263.)

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Commissioner and Deputy Commissioner, see section 1101 (a) (8) of this title.

§ 1454. Documents and copies issued by Attorney General.

(a) A person who claims to have been naturalized in the United States under section 323 of the Nationality Act of 1940 may make application to the Attorney General for a certificate of naturalization. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen and that he has been naturalized as claimed in the application, such individual shall be furnished a certificate of naturalization by the Attorney General, but only if the applicant is at the time within the United States.

(b) If any certificate of naturalization or citizenship issued to any citizen or any declaration of intention furnished to any declarant is lost, mutilated, or destroyed, the citizen or declarant may make application to the Attorney General for a new certificate or declaration. If the Attorney General finds that the certificate or declaration is lost, mutilated, or destroyed, he shall issue to the applicant a new certificate or declaration. If the certificate or declaration has been mutilated, it shall be surrendered to the Attorney General before the applicant may receive such new certificate or declaration. If the certificate or declaration has been lost, the applicant or any other person who shall have, or may come into possession of it is required to surrender it to the Attorney General.

(c) The Attorney General shall issue for any naturalized citizen, on such citizen's application therefor, a special certificate of naturalization for use by such citizen only for the purpose of obtaining recognition as a citizen of the United States by a foreign state. Such certificate when issued shall be furnished to the Secretary of State for transmission to the proper authority in such foreign state.

(d) If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by mar-

riage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the Attorney General finds the name of the applicant to have been changed as claimed, the Attorney General shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

(e) The Attorney General is authorized to make and issue certifications of any part of the naturalization records of any court, or of any certificate of naturalization or citizenship, for use in complying with any statute, State or Federal, or in any judicial proceeding. No such certification shall be made by any clerk of court except upon order of the court. (June 27, 1952, ch. 477, title III, ch. 2, § 343, 66 Stat. 263.)

REFERENCES IN TEXT

Section 323 of the Nationality Act of 1940, referred to in subsec. (a), was classified to former section 723 of this title, was repealed by section 403 (a) (42) of act June 27, 1952, and is now covered by section 1438 (a) of this title.

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Clerk of court, see section 1101 (a) (7) of this title.

Foreign state, see section 1101 (a) (14) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Unmarried, see section 1101 (a) (30) of this title.

§ 1455. Fiscal provisions.

(a) The clerk of court shall charge, collect, and account for the following fees:

(1) For making, filing, and docketing a petition for naturalization, \$10, including the final hearing on such petition, if such hearing be held, and a certificate of naturalization, if the issuance of such certificate is authorized by the naturalization court.

(2) For receiving and filing a declaration of intention, and issuing a duplicate thereof, \$5.

(b) The Attorney General shall charge, collect, and account for the following fees:

(1) For application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed, \$5.

(2) For application for a certificate of citizenship, \$5.

(3) For application for the issuance of a special certificate of citizenship to obtain recognition, \$5.

(4) For application for a certificate of naturalization under section 323 of the Nationality Act of 1940, or under section 1454 (a) of this title, \$5.

(5) For application for a certificate of citizenship in changed name, \$5.

(6) Reasonable fees in cases where such fees have not been established by law, to cover the cost of furnishing copies, whether certified or uncertified, of any part of the records, or information from the records, of the Service. Such fees shall not exceed a maximum of 25 cents per folio of one hundred words, with a minimum fee of 50 cents for any one such service, in addition to a fee of \$1 for any official certification furnished under seal. No such fee shall be required from

officers or agencies of the United States or of any State or any subdivision thereof, for such copies or information furnished for official use in connection with the official duties of such officers or agencies.

(7) Notwithstanding the preceding provisions of this subsection, no fee shall be charged or collected for an application for declaration of intention or a certificate of naturalization in lieu of a declaration or a certificate alleged to have been lost, mutilated, or destroyed, submitted by a person who was a member of the military or naval forces of the United States at any time after April 20, 1898, and before July 5, 1902; or at any time after April 5, 1917, and before November 12, 1918; or who served on the Mexican border as a member of the Regular Army or National Guard between June 1916 and April 1917; or who has served or hereafter serves in the military, air, or naval forces of the United States after September 16, 1940, and who was not at any time during such period or thereafter separated from such forces under other than honorable conditions, who was not a conscientious objector who performed no military duty whatever or refused to wear the uniform, or who was not at any time during such period or thereafter discharged from such military, air, or naval forces on account of alienage.

(c) The clerk of any naturalization court specified in subsection (a) of section 1421 of this title (except the courts specified in subsection (d) of this section) shall account for and pay over to the Attorney General one-half of all fees up to the sum of \$6,000, and all fees in excess of \$6,000, collected by any such clerk in naturalization proceedings in any fiscal year.

(d) The clerk of any United States district court (except in the District Court of the Virgin Islands of the United States and in the District Court of Guam) shall account for and pay over to the Attorney General all fees collected by any such clerk in naturalization proceedings: *Provided, however,* That the clerk of the District Court of the Virgin Islands of the United States and of the District Court of Guam shall report but shall not be required to pay over to the Attorney General the fees collected by any such clerk in naturalization proceedings.

(e) The accounting required by subsections (c) and (d) of this section shall be made and the fees paid over to the Attorney General by such respective clerks in their quarterly accounts which they are required to render to the Attorney General within thirty days from the close of each quarter of each and every fiscal year, in accordance with regulations prescribed by the Attorney General.

(f) The clerks of the various naturalization courts shall pay all additional clerical force that may be required in performing the duties imposed by this subchapter upon clerks of courts from fees retained under the provisions of this section by such clerks in naturalization proceedings.

(g) All fees collected by the Attorney General and all fees paid over to the Attorney General by clerks of courts under the provisions of this subchapter

shall be deposited by the Attorney General in the Treasury of the United States: *Provided, however,* That all fees received from applicants residing in the Virgin Islands of the United States, and in Guam, required to be paid under subsection (b) of this section, shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam, respectively.

(h) During the time when the United States is at war no clerk of a United States court shall charge or collect a naturalization fee from an alien in the military, air, or naval service of the United States for filing a petition for naturalization or issuing a certificate of naturalization upon admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this subsection shall be made to the Attorney General as in the case of other reports required of clerks of courts by this subchapter.

(i) In addition to the other fees required by this subchapter, the petitioner for naturalization shall, upon the filing of a petition for naturalization, deposit with and pay to the clerk of court a sum of money sufficient to cover the expenses of subpoenaing and paying the legal fees of any witnesses for whom such petitioner may request a subpoena, and upon the final discharge of such witnesses, they shall receive, if they demand the same from the clerk, the customary and usual witness fees from the moneys which the petitioner shall have paid to such clerk for such purpose, and the residue, if any, shall be returned by the clerk to the petitioner. (June 27, 1952, ch. 477, title III, ch. 2, § 344, 66 Stat. 266; July 7, 1952, Pub. L. 85-508, § 26, 72 Stat. 351.)

REFERENCES IN TEXT

Section 323 of the Nationality Act of 1940, referred to in subsec. (b) (4), was formerly classified to section 723 of this title, was repealed by section 403 (a) (42) of act June 27, 1952, and is now covered by section 1438 (a) of this title.

AMENDMENTS

1958—Subsec. (d). Pub. L. 85-508 eliminated "in Alaska and" preceding "in the District Court of the Virgin Islands"

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment of this section by Pub. L. 85-508 was dependent upon the admission of Alaska into the Union under section 8(b) of Pub. L. 85-508. Admission was accomplished Jan. 3, 1959 upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508. See notes preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Audit of vouchers and accounts of the courts and their clerical and administrative personnel by Director of Administrative Office of the United States Courts, see section 604 of Title 28, Judiciary and Judicial Procedure.

Clerk of each district court to pay into the Treasury all fees, costs and other moneys collected by him except certain naturalization fees, see section 751 of Title 20, Judiciary and Judicial Procedure.

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Clerk of court, see section 1101 (a) (7) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Naturalization court, see section 1101 (a) (24) of this title.

Service, see section 1101 (a) (34) of this title.

United States, see section 1101 (a) (38) of this title.

§ 1456. Repealed. Pub. L. 86-682, § 12(c), Sept. 2, 1960, 74 Stat. 708, eff. Sept. 1, 1960.

Section, act June 27, 1952, ch. 477, title III, ch. 2, § 345, 66 Stat. 266, related to free transmittal of official mail in naturalization matters. See sections 4152 and 5003 of Title 39, The Postal Service.

§ 1457. Publication and distribution of citizenship textbooks; use of naturalization fees.

Authorization is granted for the publication and distribution of the citizenship textbook described in subsection (b) of section 1443 of this title and for the reimbursement of the appropriation of the Department of Justice upon the records of the Treasury Department from the naturalization fees deposited in the Treasury through the Service for the cost of such publication and distribution, such reimbursement to be made upon statements by the Attorney General of books so published and distributed. (June 27, 1952, ch. 477, title III, ch. 2, § 346, 66 Stat. 266.)

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Service, see section 1101 (a) (34) of this title.

§ 1458. Compilation of naturalization statistics and payment for equipment.

The Attorney General is authorized and directed to prepare from the records in the custody of the Service a report upon those heretofore seeking citizenship to show by nationalities their relation to the numbers of aliens annually arriving and to the prevailing census populations of the foreign-born, their economic, vocational, and other classification, in statistical form, with analytical comment thereon, and to prepare such report annually hereafter. Payment for the equipment used in preparing such compilation shall be made from the appropriation for the enforcement of this chapter by the Service. (June 27, 1952, ch. 477, title III, ch. 2, § 347, 66 Stat. 266.)

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Alien, see section 1101 (a) (3) of this title.

Attorney General, see section 1101 (a) (5) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Service, see section 1101 (a) (34) of this title.

§ 1459. Admissibility in evidence of statements voluntarily made to officer or employees in the course of their official duties; failure of clerk of court to do duty; penalties.

(a) It shall be lawful and admissible as evidence in any proceedings founded under this subchapter, or any of the penal or criminal provisions of any law relating to immigration, naturalization, or citizenship, for any officer or employee of the United States to render testimony as to any statement vol-

untarily made to such officer or employee in the course of the performance of the official duties of such officer or employee by any defendant at the time or subsequent to the alleged commission of any crime or offense which may tend to show that such defendant did not have or could not have had knowledge of any matter concerning which such defendant is shown to have made affidavit, or oath, or to have been a witness pursuant to such law or laws.

(b) In case any clerk of court shall refuse or neglect to comply with any of the provisions of section 1450 (a), (b), or (c) of this title, such clerk of court shall forfeit and pay to the United States the sum of \$25 in each and every case in which such violation or omission occurs and the amount of such forfeiture may be recovered by the United States in a civil action against such clerk.

(c) If any clerk of court shall fail to return to the Service or properly account for any certificate of naturalization furnished by the Service as provided in subsection (d) of section 1450 of this title, such clerk of court shall be liable to the United States in the sum of \$50, to be recovered in a civil action, for each and every such certificate not properly accounted for or returned. (June 27, 1952, ch. 477, title III, ch. 2, § 348, 66 Stat. 267.)

CROSS REFERENCES

Definition of the term—

Clerk of court, see section 1101 (a) (7) of this title.

Service, see section 1101 (a) (34) of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Civil action, one form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

PART III.—LOSS OF NATIONALITY

§ 1481. Loss of nationality by native-born or naturalized citizen; voluntary action; burden of proof; presumptions.

(a) From and after the effective date of this chapter a person who is a national of the United States whether by birth or naturalization, shall lose his nationality by—

(1) obtaining naturalization in a foreign state upon his own application, upon an application filed in his behalf by a parent, guardian, or duly authorized agent, or through the naturalization of a parent having legal custody of such person: *Provided*, That nationality shall not be lost by any person under this section as the result of the naturalization of a parent or parents while such person is under the age of twenty-one years, or as the result of a naturalization obtained on behalf of a person under twenty-one years of age by a parent, guardian, or duly authorized agent, unless such person shall fail to enter the United States to establish a permanent residence prior to his twenty-fifth birthday: *And provided further*, That a person who shall have lost nationality prior to January 1, 1948, through the naturalization in a foreign state of a parent or parents, may, within one year from the effective date of this chapter, apply for a visa and for admission to the United States as a nonquota immigrant under the provisions of section 1101 (a) (27) (E) of this title; or

(2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdivision thereof; or

(3) entering, or serving in, the armed forces of a foreign state unless, prior to such entry or service, such entry or service is specifically authorized in writing by the Secretary of State and the Secretary of Defense: *Provided*, That the entry into such service by a person prior to the attainment of his eighteenth birthday shall serve to expatriate such person only if there exists an option to secure a release from such service and such person fails to exercise such option at the attainment of his eighteenth birthday; or

(4) (A) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, if he has or acquires the nationality of such foreign state; or (B) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, for which office, post, or employment an oath, affirmation, or declaration of allegiance is required; or

(5) voting in a political election in a foreign state or participating in an election or plebiscite to determine the sovereignty over foreign territory; or

(6) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; or

(7) making in the United States a formal written renunciation of nationality in such form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the interests of national defense; or

(8) deserting the military, air, or naval forces of the United States in time of war, if and when he is convicted thereof by court martial and as the result of such conviction is dismissed or dishonorably discharged from the service of such military, air, or naval forces: *Provided*, That, notwithstanding loss of nationality or citizenship under the terms of this chapter or previous laws by reason of desertion committed in time of war, restoration to active duty with such military, air, or naval forces in time of war or the reenlistment or induction of such a person in time of war with permission of competent military, air, or naval authority shall be deemed to have the immediate effect of restoring such nationality or citizenship heretofore or hereafter so lost; or

(9) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of section 2383 of Title 18 or willfully performing any act in violation of section 2385 of Title 18, or violating section 2384 of Title 18 by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to

levy war against them, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction; or

(10) departing from or remaining outside of the jurisdiction of the United States in time of war or during a period declared by the President to be a period of national emergency for the purpose of evading or avoiding training and service in the military, air, or naval forces of the United States. For the purposes of this paragraph failure to comply with any provision of any compulsory service laws of the United States shall raise the presumption that the departure from or absence from the United States was for the purpose of evading or avoiding training and service in the military, air, or naval forces of the United States.

(b) Any person who commits or performs any act specified in subsection (a) of this section shall be conclusively presumed to have done so voluntarily and without having been subjected to duress of any kind, if such person at the time of the act was a national of the state in which the act was performed and had been physically present in such state for a period or periods totaling ten years or more immediately prior to such act.

(c) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after September 26, 1961 under, or by virtue of, the provisions of this chapter or any other Act, the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence. Except as otherwise provided in subsection (b) of this section, any person who commits or performs, or who has committed or performed, any act of expatriation under the provisions of this chapter or any other Act shall be presumed to have done so voluntarily, but such presumption may be rebutted upon a showing, by a preponderance of the evidence, that the act or acts committed or performed were not done voluntarily. (June 27, 1952, ch. 477, title III, ch. 3, § 349, 66 Stat. 267; Sept. 3, 1954, ch. 1256, § 2, 68 Stat. 1146; Sept. 26, 1961, Pub. L. 87-301, § 19, 75 Stat. 656.)

AMENDMENTS

1961—Subsec. (c). Pub. L. 87-301 added subsec. (c).

1954—Subsec. (a) (9). Act Sept. 3, 1954, provided for forfeiture of citizenship of persons advocating the overthrow of the Government by force or violence.

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

SHORT TITLE

Section 1 of act Sept. 3, 1954, provided that the amendment of subsec. (a) (9) by section 2 of act Sept. 3, 1954, should be popularly known as the "Expatriation Act of 1954"

RIGHT OF EXPATRIATION

R. S. § 1999 provided that: "Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the

maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic."

CROSS REFERENCES

Definition of the term—

Attorney General, see section 1101 (a) (5) of this title.
 Consular officer, see section 1101 (a) (9) of this title.
 Foreign state, see section 1101 (a) (14) of this title.
 National, see section 1101 (a) (21) of this title.
 National of the United States, see section 1101 (a) (22) of this title.
 Naturalization, see section 1101 (a) (23) of this title.
 Parent, see section 1101 (b) (2), (c) (2) of this title.
 United States, see section 1101 (a) (38) of this title.
 Treason, sedition and subversive activities, see chapter 115 of Title 18, Crimes and Criminal Procedure.

§ 1482. Dual nationals; divestiture of nationality.

A person who acquired at birth the nationality of the United States and of a foreign state and who has voluntarily sought or claimed benefits of the nationality of any foreign state shall lose his United States nationality by hereafter having a continuous residence for three years in the foreign state of which he is a national by birth at any time after attaining the age of twenty-two years unless he shall—

(1) prior to the expiration of such three-year period, take an oath of allegiance to the United States before a United States diplomatic¹ or consular officer in a manner prescribed by the Secretary of State; and

(2) have his residence outside of the United States solely for one of the reasons set forth in paragraphs (1), (2)—(7), or (8) of section 1485 of this title, or paragraph (1) or (2) of section 1486 of this title: *Provided, however,* That nothing contained in this section shall deprive any person of his United States nationality if his foreign residence shall begin after he shall have attained the age of sixty years and shall have had his residence in the United States for twenty-five years after having attained the age of eighteen years.

(June 27, 1952, ch. 477, title III, ch. 3, § 350, 66 Stat. 269.)

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

RIGHT OF EXPATRIATION

Provisions preserving the right, see R. S. § 1999 set out as a note under section 1481 of this title.

CROSS REFERENCES

Definition of the term—

Consular officer, see section 1101 (a) (9) of this title.
 Foreign state, see section 1101 (a) (14) of this title.
 National, see section 1101 (a) (21) of this title.
 National of the United States, see section 1101 (a) (22) of this title.
 Residence, see section 1101 (a) (33) of this title.
 United States, see section 1101 (a) (38) of this title.

¹ So in original. Probably should read "diplomatic".

§ 1483. Restrictions on expatriation.

(a) Except as provided in paragraphs (7)—(9) of section 1481 of this title, no national of the United States can expatriate himself, or be expatriated, under this chapter while within the United States or any of its outlying possessions, but expatriation shall result from the performance within the United States or any of its outlying possessions of any of the acts or the fulfillment of any of the conditions specified in this Part if and when the national thereafter takes up a residence outside the United States and its outlying possessions.

(b) A national who within six months after attaining the age of eighteen years asserts his claim to United States nationality, in such manner as the Secretary of State shall by regulation prescribe, shall not be deemed to have expatriated himself by the commission, prior to his eighteenth birthday, of any of the acts specified in paragraphs (2) and (4)—(6) of section 1481 (a) of this title. (June 27, 1952, ch. 477, title III, ch. 3, § 351, 66 Stat. 269.)

RIGHT OF EXPATRIATION

Provisions preserving the right, see R.S. § 1999, set out as a note under section 1481 of this title.

CROSS REFERENCES

Definition of the term—

National of the United States, see section 1101 (a) (22) of this title.
 Outlying possessions of the United States, see section 1101 (a) (29) of this title.
 United States, see section 1101 (a) (38) of this title.

§ 1484. Loss of nationality by naturalized national.

(a) A person who has become a national by naturalization shall lose his nationality by—

(1) having a continuous residence for three years in the territory of a foreign state of which he was formerly a national or in which the place of his birth is situated, except as provided in section 1485 of this title, whether such residence commenced before or after the effective date of this chapter;

(2) having a continuous residence for five years in any other foreign state or states, except as provided in sections 1485 and 1486 of this title, whether such residence commenced before or after the effective date of this chapter.

(b) (1) For the purpose of paragraph (1) of subsection (a) of this section, the time during which the person had his residence abroad solely or principally for a reason or purpose within the scope of any provision of section 1485 of this title shall not be counted in computing quantum of residence.

(2) For the purpose of paragraph (2) of subsection (a) of this section, the time during which the person had his residence abroad solely or principally for a reason or purpose within the scope of any provision of sections 1485 and 1486 of this title shall not be counted in computing quantum of residence. (June 27, 1952, ch. 477, title III, ch. 3, § 352, 66 Stat. 269.)

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Foreign state, see section 1101 (a) (14) of this title.

National, see section 1101 (a) (21) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Residence, see section 1101 (a) (33) of this title.

§ 1485. Inapplicability of section 1484 to certain persons.

Section 1484 (a) of this title shall have no application to a national who—

(1) has his residence abroad in the employment of the Government of the United States; or

(2) is receiving compensation from the Government of the United States and has his residence abroad on account of disability incurred in its service; or

(3) shall have had his residence in the United States for not less than twenty-five years subsequent to his naturalization and shall have attained the age of sixty years when the foreign residence is established; or

(4) had his residence abroad on October 14, 1940, and temporarily has his residence abroad, or who, thereafter has gone or goes abroad and temporarily has his residence abroad, solely or principally to represent a bona fide American educational, scientific, philanthropic, commercial, financial, or business organization, having its principal office or place of business in the United States, or a bona fide religious organization having an office and representative in the United States, or an international agency of an official character in which the United States participates, for which he receives a substantial compensation; or

(5) has his residence abroad and is prevented from returning to the United States exclusively (A) by his own ill health; or (B) by the ill health of his parent, spouse, or child who cannot be brought to the United States, whose condition requires his personal care and attendance: *Provided*, That in such case the person having his residence abroad shall, at least every six months, register at the appropriate Foreign Service office and submit evidence satisfactory to the Secretary of State that his case continues to meet the requirements of this subparagraph; or (C) by reason of the death of his parent, spouse, or child: *Provided*, That in the case of the death of such parent, spouse, or child the person having his residence abroad shall return to the United States within six months after the death of such relative; or

(6) has his residence abroad for the purpose of pursuing a full course of study of a specialized character or attending full-time an institution of learning of a grade above that of a preparatory school: *Provided*, That such residence does not exceed five years; or

(7) is the spouse or child of, or has a son or daughter who is, an American citizen, and who has his residence abroad for the purpose of being with his American citizen spouse, parent, or son or daughter who has his residence abroad for one of the objects or considerations specified in para-

graphs (1)—(5) or (6) of this section, or paragraph (2) of section 1486 of this title; or

(8) is the spouse or child of an American national by birth who while under the age of twenty-one years had his residence in the United States for a period or periods totalling ten years, and has his residence abroad for the purpose of being with said spouse or parent; or

(9) was born in the United States or one of its outlying possessions, who originally had American nationality and who, after having lost such nationality through marriage to an alien, reacquired it; or

(10) has, by Act of Congress or by treaty, United States nationality solely by reason of former nationality and birth or residence in an area outside the continental United States: *Provided*, That subsections (b) and (c) of section 404 of the Nationality Act of 1940, as amended, shall not be held to be or to have been applicable to persons defined in this paragraph.

(June 27, 1952, ch. 477, title III, ch. 3, § 353, 66 Stat. 270; Aug. 4, 1959, Pub. L. 86-129, § 1, 73 Stat. 274.)

REFERENCES IN TEXT

Section 404 of the Nationality Act of 1940, referred to in par. (10), was classified to former section 804 of this title, was repealed by section 403 (a) (42) of act June 27, 1952, and is now covered by section 1484 (a) of this title.

AMENDMENTS

1959—Par. (7). Pub. L. 86-129 included a national who has a son or daughter who is an American citizen.

CROSS REFERENCES

Definition of the term—

Child, see section 1101 (b) (1), (c) (1) of this title.

National, see section 1101 (a) (21) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Organization, see section 1101 (a) (28) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Residence, see section 1101 (a) (33) of this title.

Spouse, see section 1101 (a) (35) of this title.

§ 1486. Inapplicability of section 1484 (a) (2) to certain persons.

Section 1484 (a) (2) of this title shall have no application to a national—

(1) who is a veteran of the Spanish-American War, World War I, or World War II, or of the Korean hostilities (having served honorably in an active-duty status in the military, air, or naval forces of the United States during a period beginning June 25, 1950, and ending July 1, 1955), and the spouse, children, and dependent parents of such veteran whether such residence in the territory of a foreign state or states commenced before or after the effective date of this chapter: *Provided*, That any such veteran who upon June 27, 1952, has had his residence continuously in the territory of a foreign state of which he was formerly a national or in which the place of his birth is situated for three years or more, and who has retained his United States nationality solely by reason of the provisions of section 406(h) of the Nationality Act of 1940, shall not be subject to the provisions or requirements of section 1484(a) (1) of this title: *Provided further*, That the provisions of section 404(c) of the Nationality Act of

1940, as amended, shall not be held to be or to have been applicable to veterans of World War II;

(2) who has established to the satisfaction of the Secretary of State, as evidenced by possession of a valid unexpired United States passport or other valid document issued by the Secretary of State, that his residence is temporarily outside of the United States for the purpose of (A) carrying on a commercial enterprise which in the opinion of the Secretary of State will directly and substantially benefit American trade or commerce; or (B) carrying on scientific research on behalf of an institution accredited by the Secretary of State and engaged in research which in the opinion of the Secretary of State is directly and substantially beneficial to the interests of the United States; or (C) engaging in such work or activities, under such unique or unusual circumstances, as may be determined by the Secretary of State to be directly and substantially beneficial to the interests of the United States;

(3) who is the widow or widower of a citizen of the United States and who has attained the age of sixty years, and who has had a residence outside of the United States and its outlying possessions for a period of not less than ten years during all of which period a marriage relationship has existed with a spouse who has had a residence outside of the United States and its outlying possessions in an occupation or capacity of the type designated in paragraphs (1)—(4) or (5) (A) of section 1485 of this title, or paragraphs (1), (2), or (4) of this section;

(4) who has attained the age of sixty years, and has had a residence outside the United States and its outlying possessions for not less than ten years, during all of which period he has been engaged in an occupation of the type designated in paragraphs (1), (2), or (4) of section 1485 of this title, or paragraph (2) of this section, and who is in bona fide retirement from such occupation; or who is the spouse or child of the national described in this paragraph and who has his residence abroad for the purpose of being with such American citizen spouse or parent; or

(5) who shall have had his residence in the United States for not less than fifteen years subsequent to his naturalization and prior to the establishment of his foreign residence; or who prior to attaining the age of twenty-one years, shall have had his residence in the United States for not less than fifteen years subsequent to his lawful admission for permanent residence.

(June 27, 1952, ch. 477, title III, ch. 3, § 354, 66 Stat. 271; Aug. 4, 1959, Pub. L. 86-129, §§ 2, 3, 73 Stat. 274; Sept. 26, 1961, Pub. L. 87-301, § 20, 75 Stat. 656.)

REFERENCES IN TEXT

The provisions of sections 406(h) and 404(c) of the Nationality Act of 1940, referred to in par. (1), were formerly classified to sections 806(h) and 804(c), respectively, of this title, were repealed by section 403(a) (42) of act June 27, 1952, and are now covered by par. (1) of this section and section 1484(a) of this title.

AMENDMENTS

1961—Par. (4). Pub. L. 87-301 included the spouse or child of the national described in this paragraph who has his residence abroad for the purpose of being with such American citizen spouse or parent.

1959—Par. (1). Pub. L. 86-129, § 2, included veterans of Korean hostilities.

Par. (5). Pub. L. 86-129, § 3, substituted "fifteen" for "twenty-five" in the first clause and added the second clause.

EFFECTIVE DATE

Chapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the terms—

Child, see section 1101 (b) (1), (c) (1) of this title.

Foreign state, see section 1101 (a) (14) of this title.

National, see section 1101 (a) (21) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Naturalization, see section 1101 (a) (23) of this title.

Outlying possessions of the United States, see section 1101 (a) (29) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Passport, see section 1101 (a) (30) of this title.

Residence, see section 1101 (a) (33) of this title.

Spanish-American War, World War I and World War II, see section 1101 (d) (2) of this title.

Spouse, see section 1101 (a) (35) of this title.

Veteran, see section 1101 (d) (1) of this title.

§ 1487. Loss of American nationality through parents' expatriation; not effective until persons attain age of twenty-five years.

A person having United States nationality, who is under the age of twenty-one and whose residence is in a foreign state with or under the legal custody of a parent who hereafter loses United States nationality under section 1482 or 1484 of this title, shall also lose his United States nationality if such person has or acquires the nationality of such foreign state: *Provided*, That, in such case, United States nationality shall not be lost as the result of loss of United States nationality by the parent unless and until the person attains the age of twenty-five years without having established his residence in the United States. (June 27, 1952, ch. 477, title III, ch. 3, § 355, 66 Stat. 272.)

EFFECTIVE DATE

Section effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

Foreign state, see section 1101 (a) (14) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Parent, see section 1101 (b) (2), (c) (2) of this title.

Residence, see section 1101 (a) (33) of this title.

§ 1488. Nationality lost solely from performance of acts or fulfillment of conditions.

The loss of nationality under this Part shall result solely from the performance by a national of the acts or fulfillment of the conditions specified in this Part. (June 27, 1952, ch. 477, title III, ch. 3, § 356, 66 Stat. 272.)

CROSS REFERENCES

Definition of the term national, see section 1101 (a) (21) of this title.

§ 1489. Application of treaties; exceptions.

Nothing in this subchapter shall be applied in contravention of the provisions of any treaty or

convention to which the United States is a party and which has been ratified by the Senate upon the effective date of this subchapter: *Provided, however,* That no woman who was a national of the United States shall be deemed to have lost her nationality solely by reason of her marriage to an alien on or after September 22, 1922, or to an alien racially ineligible to citizenship on or after March 3, 1931, or, in the case of a woman who was a United States citizen at birth, through residence abroad following such marriage, notwithstanding the provisions of any existing treaty or convention. (June 27, 1952, ch. 477, title III, ch. 3, § 357, 66 Stat. 272.)

EFFECTIVE DATE

Subchapter effective 180 days after June 27, 1952, see section 407 of act June 27, 1952, set out as a note under section 1101 of this title.

CROSS REFERENCES

Definition of the term—

- Alien, see section 1101 (a) (3) of this title.
- Ineligible to citizenship, see section 1101 (a) (19) of this title.
- National of the United States, see section 1101 (a) (22) of this title.
- Residence, see section 1101 (a) (33) of this title.
- United States, see section 1101 (a) (38) of this title.

PART IV.—MISCELLANEOUS

§ 1501. Certificate of diplomatic or consular officer of United States as to loss of American nationality.

Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state has lost his United States nationality under any provision of Part 3 of this subchapter, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Attorney General, for his information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates. (June 27, 1952, ch. 477, title III, ch. 3, § 358, 66 Stat. 272.)

REFERENCES IN TEXT

Chapter IV of the Nationality Act of 1940, as amended, referred to in the text, was classified to former sections 800—810 of this title and was repealed by section 403 (a) (42) of act June 27, 1952.

CROSS REFERENCES

Definition of the term—

- Attorney General, see section 1101 (a) (5) of this title.
- Consular officer, see section 1101 (a) (9) of this title.
- Foreign state, see section 1101 (a) (14) of this title.
- National of the United States, see section 1101 (a) (22) of this title.

§ 1502. Certificate of nationality issued by Secretary of State for person not a naturalized citizen of United States for use in proceedings of a foreign state.

The Secretary of State is authorized to issue, in his discretion and in accordance with rules and regulations prescribed by him, a certificate of nationality for any person not a naturalized citizen of the United States who presents satisfactory evidence that he

is an American national and that such certificate is needed for use in judicial or administrative proceedings in a foreign state. Such certificate shall be solely for use in the case for which it was issued and shall be transmitted by the Secretary of State through appropriate official channels to the judicial or administrative officers of the foreign state in which it is to be used. (June 27, 1952, ch. 477, title III, ch. 3, § 359, 66 Stat. 273.)

CROSS REFERENCES

Definition of the term—

- Foreign state, see section 1101 (a) (14) of this title.
- National of the United States, see section 1101 (a) (22) of this title.
- United States, see section 1101 (a) (38) of this title.

§ 1503. Denial of rights and privileges as national.

(a) Proceedings for declaration of United States nationality.

If any person who is within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may institute an action under the provisions of section 2201 of Title 28 against the head of such department or independent agency for a judgment declaring him to be a national of the United States, except that no such action may be instituted in any case if the issue of such person's status as a national of the United States (1) arose by reason of, or in connection with any exclusion proceeding under the provisions of this chapter or any other act, or (2) is in issue in any such exclusion proceeding. An action under this subsection may be instituted only within five years after the final administrative denial of such right or privilege and shall be filed in the district court of the United States for the district in which such person resides or claims a residence, and jurisdiction over such officials in such cases is conferred upon those courts.

(b) Application for certificate of identity; appeal.

If any person who is not within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may make application to a diplomatic or consular officer of the United States in the foreign country in which he is residing for a certificate of identity for the purpose of traveling to a port of entry in the United States and applying for admission. Upon proof to the satisfaction of such diplomatic or consular officer that such application is made in good faith and has a substantial basis, he shall issue to such person a certificate of identity. From any denial of an application for such certificate the applicant shall be entitled to an appeal to the Secretary of State, who, if he approves the denial, shall state in writing his reasons for his decision. The Secretary of State shall prescribe rules and regulations for the issuance of certificates of identity as above provided. The provisions of this subsection shall be applicable only to a person who at some time prior to his application for the certificate of identity has been physically present

in the United States, or to a person under sixteen years of age who was born abroad of a United States citizen parent.

(c) Application for admission to United States under certificate of identity; revision of determination.

A person who has been issued a certificate of identity under the provisions of subsection (b) of this section, and while in possession thereof, may apply for admission to the United States at any port of entry, and shall be subject to all the provisions of this chapter relating to the conduct of proceedings involving aliens seeking admission to the United States. A final determination by the Attorney General that any such person is not entitled to admission to the United States shall be subject to review by any court of competent jurisdiction in habeas corpus proceedings and not otherwise. Any person

described in this section who is finally excluded from admission to the United States shall be subject to all the provisions of this chapter relating to aliens seeking admission to the United States. (June 27, 1952, ch. 477, title III, ch. 3, § 360, 66 Stat. 273.)

CROSS REFERENCES

Definition of the term—

Allen, see section 1101 (a) (3) of this title.

Application for admission, see section 1101 (a) (4) of this title.

Attorney General, see section 1101 (a) (9) of this title.

Consular officer, see section 1101 (a) (9) of this title.

National of the United States, see section 1101 (a) (22) of this title.

Residence, see section 1101 (a) (33) of this title.

United States, see section 1101 (a) (38) of this title.
Judicial review of orders of deportation and exclusion, see section 1105a of this title.